

**TAXUD/2001/DE/307**



## **Descriptive report**

*14 June 2002*

by

**PRICEWATERHOUSECOOPERS** 

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- [VAT Registration and VAT return](#)
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## **1. Introduction**

We had the pleasure to win the invitation to tender TAXUD/2001/AO-007 concerning a Study on the simplification and modernisation of VAT obligations.

On 17 January 2002 a kick-off meeting was organised in Brussels between the European Commission and PricewaterhouseCoopers. This kick-off meeting resulted in the drawing up of the “Agreed Project Scope and Methodology”, a document including the final scope of the study in accordance with our discussions, the proposed methodology and our project plan. This document was sent to the European Commission on 10 April 2002.

Subsequently, on 1 February 2002 a second meeting was organised in Brussels between the European Commission and of PricewaterhouseCoopers. During this meeting, the European Commission provided its comments on the template of the questionnaire for the gathering of the relevant data on the current VAT legislation in the EU Member States in the areas of VAT registration, the submission of VAT returns (including summary returns), the payment of the tax (including refund of tax credits) and the submission of recapitulative statements.

## 2. Scope of the project

### 2.1 Background

As a starting point, when dealing with indirect taxation and VAT in particular, it must be kept in mind that the European Commission's ultimate purpose is to achieve the single market and the competitiveness of European enterprises. According to its VAT strategy expressed in 2000<sup>1</sup> and the released European Union tax strategy<sup>2</sup>, which is intended to simplify and modernise the current system, the Commission would like to give new impetus to the simplification of VAT obligations. These concerns have been subject to numerous recommendations from the SLIM team, under the second phase of that exercise<sup>3</sup>. These recommendations were based on the observation that the VAT system currently imposes excessive costs and constraints on business, discourages trade between Member States due to the excessive complexity of existing rules, distorts fair competition within the Single Market due to divergences in the application of national legislation, and has not yet been adapted to the new technological environment.

The common VAT system, as well as its practical implementation, should facilitate and not create a barrier to the free movement of goods, persons, services and capital. Furthermore the globalisation of the economy, the planned expansion of the European Union, the introduction of the single currency and the rapid developments in the area of electronic commerce and telecommunications increase the need for simplification and modernisation in the area of VAT and VAT compliance.

Therefore, following the recommendations of the SLIM team, the European Commission has made proposals aimed at reducing VAT obligations within the framework of the Internal Market. In the first instance, the Commission has chosen to deal with the questions of (1) the rules governing the right to deduct VAT and the repeal of the Eighth VAT Directive<sup>4</sup>, (2) tax representation<sup>5</sup> and (3) invoicing requirements, including electronic invoicing<sup>6</sup>.

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<sup>1</sup> Communication from the Commission to the Council and the European Parliament – A Strategy to improve the operation of the VAT system within the context of the Internal market – COM (2000) 348 final.

<sup>2</sup> Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee – Tax policy in the European Union – Priorities for the years ahead – COM (2001) 260 final

<sup>3</sup> Report from the Commission to the Council and to the European Parliament on the results of the second SLIM phase and the monitoring of the implementation of the recommendations of the first phase – COM 97 (618) final.

<sup>4</sup> Proposal for a Council Directive amending Directive 77/388/EEC as regards the rules governing the right to deduct Value Added Tax – COM (98) 377 final.

<sup>5</sup> Directive 2000/65/CE of 17 October 2000 modifying Directive 77/388/CE concerning the person liable to pay VAT.

<sup>6</sup> Directive 2001/115/EC of 20 December 2001 amending Directive 77/388/EEC with a view to simplifying, modernising and harmonising the conditions laid down for invoicing in respect of value added tax. This Directive is based on the study and recommendations on the requirements imposed

Nevertheless, according to the European Commission, much remains to be done in the field of the simplification and modernisation of VAT obligations. As a matter of fact, the other recommendations of the SLIM exercise still need to be addressed (e.g. the harmonisation of registration formalities among Member States, the possibility of creating a basic common VAT return, the possibility of establishing bands or thresholds for taxation and the submission of returns by Small and Medium-Sized Enterprises (“SMEs”). Though no concrete proposals have been made so far concerning these items, the European Commission has initiated certain other actions in the framework of SLIM, such as a study on the choice of a single place of taxation, carried out by PricewaterhouseCoopers in 1999<sup>7</sup>.

Moreover, the latest developments in electronic commerce create an obvious need to think about changing VAT obligations to meet the challenges of the new economy. Cheap access to the Internet now means that even SMEs can communicate with public authorities electronically. In order to reduce costs and thus enhance the efficiency and competitiveness of European companies (both large and multinational companies (“MNCs”) and SMEs), it could be useful to consider dealing electronically with VAT compliance obligations.

The European Union is aware of the need for a co-ordinated approach at a Community level in simplifying and modernising VAT obligations. Moreover, the common legislation should be applicable not only where both parties are within one jurisdiction but also where they are established in different jurisdictions.

In this respect, it is important to note that, as from 1 January 2002, it is permissible for a taxable person not established in a Member State where he performs taxable activities to register directly (at least for European taxable persons). This means that these persons are allowed to submit their declarations and to pay VAT directly in a Member State where they are not established, without the need to appoint a VAT representative. However, this new common rule can only lead to a reduction in costs and increase efficiency for all economic operators and authorities if VAT obligations are as common as possible, taking into account the principle of subsidiarity.

Furthermore, it is also important to note that the Member States reached a political agreement on 12 February 2002 regarding the future VAT treatment of electronically supplied services and on the related regulation on administrative co-operation<sup>8</sup>. In this respect, Member States agreed on the introduction of a special scheme for non-established taxable persons supplying electronic services to non-taxable persons. Under this scheme it will be possible for said taxable persons, who neither have

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by Member States, for the purpose of charging taxes, for invoices produced by electronic or other means (XXI/98/CB-5010), carried out by PricewaterhouseCoopers in 1999.

<sup>7</sup> Study on the choice of a single place of taxation (XXI/98/CB-5007).

<sup>8</sup> Political agreement on the proposal for a Council Directive amending Directive 77/388/EEC as regards the value added tax arrangements applicable to certain electronically supplied services and radio and television broadcasting services and on the proposal for a Council Regulation amending Regulation (EEC) No 218/92 on administrative co-operation in the field of indirect taxation (VAT) and introducing additional measures regarding electronic commerce.

established their business nor have a fixed establishment within the territory of the European Union and who are not otherwise required to be identified for VAT purposes under article 22 of the Directive, to identify individually for VAT purposes with a single Member State (i.e. the Member State of Identification). The non-established taxable person will be obliged to provide the Member State of Identification electronically with a statement of commencement, cessation and change of taxable activities. Furthermore, under this special scheme, the non-established taxable person will be obliged to file electronically quarterly VAT returns and to make records of transactions electronically available to the Member State of Identification and to the Member State of consumption.

Finally, it has to be noticed that business practices show an increasing tendency towards outsourcing of all types of business processes in order to enhance efficiency and competitiveness. Administrative compliance work is one of the processes that is often outsourced. Moreover, in a globalising environment, outsourcing of this administrative compliance work becomes even a cross-border matter. To an increasing extent, MNC's use in-group shared service centres or third parties to deal centrally with this issue. VAT rules should in this respect be modernised in order to enable these existing business practices.

### **2.1.1 The current provisions of the Sixth Directive<sup>9</sup>**

Title XIII of the Sixth Directive details the obligations of persons liable for the payment of VAT.

More particularly, Article 22 (1)(c) of the Directive provides that, regarding registration, Member States must take the measures necessary to identify a certain number of taxable persons by means of an individual number. This obligation to register was not included in the Sixth Directive up to 31 December 1992 but was nevertheless already applied by some Member States. It is now a corner stone of the transitional VAT regime. Fifteen different regimes are currently in force in this respect within the European Union.

Similarly, while Article 22 (4) of the Directive requires every taxable person to submit a VAT return, the deadline for submitting it is determined by Member States, providing that this deadline may not be more than two months following the end of each tax period. However, Member States may set these tax periods themselves provided they do not exceed one year. The information that the declaration must contain is not detailed in the Directive although it does contain basic guidelines.

Payment of the tax is dealt with in Article 22 (5) of the Directive. This article provides that every taxable person has to pay the net amount of the value-added tax when submitting the regular return. Once again, Member States may set a different date for payment or may demand an interim payment. For the rest, other application measures regarding payment of the tax are left to the Member States.

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<sup>9</sup> Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes, O.J., June 13, 1977.

Regarding summary statements, Article 22 (6) of the Directive gives guidelines to the Member States but does not detail their form or the due date for submitting them. These items are thus determined by Member States.

An important provision in the context of this study lies in Article 22 (8) of the Directive. Under this provision, Member States may impose other obligations that they deem necessary for the correct collection of the tax and for the prevention of evasion, subject to the requirement of equal treatment for domestic transactions and transactions carried out between Member States by taxable persons and provided that such obligations do not, in trade between Member States, give rise to formalities connected with the crossing of frontiers.

Besides this, under Article 22 (9) of the Directive, some categories of taxable persons may be released from certain or all obligations by Member States.

In addition, Article 22 (10) of the Directive requires Member States to take measures to ensure that non-taxable legal persons who are liable for the tax payable in respect of intra-Community acquisitions of goods comply with the obligations relating to declaration and payment and that they are identified by an individual number.

Under Article 22 (11) of the Directive regarding intra-Community acquisitions of products subject to excise duty and intra-Community acquisitions of new means of transport, Member States have to adopt arrangements for declaration and subsequent payment.

According to Article 22 (12) of the Directive, Member States can be authorised by the Council to introduce particular measures to simplify the obligations relating to summary statements for certain categories of taxable persons whose total annual value of supplies of goods or provisions of services does not exceed certain thresholds.

Under Title XIV of the Sixth Directive, it is possible to apply simplification procedures for collecting the tax or to release some taxable persons from the obligations imposed by Article 22. In this case, special schemes exist for small undertakings and farmers, under articles 24 and 25, respectively, of the Sixth Directive. As these simplified procedures constitute an option and not an obligation for Member States, this has led to simplification regimes that differ from one Member State to another for both categories of taxable persons.

Finally Title XV of the Sixth Directive, constituted by Article 27, provides that the Council may authorise a Member State to apply special measures to simplify the procedure for charging the tax, knowing that special measures introduced on 1 January 1977 may continue to be applied under certain conditions with the implementation of the Sixth Directive. A certain number of special measures in respect of VAT obligations referred to in this study has led to different simplification regimes from one Member State to another, especially for SME's.

It appears from the aforementioned provisions of the Sixth Directive that the national legislation and national administrative practices of the Member States determine what VAT obligations are to be applied. This has resulted in a complex and broad diversity of national measures imposing financial and administrative burdens on business.

The options thus granted to the Member States result in different VAT compliance rules, and make currently e.g. data mining or technology-based audits on data collected via VAT returns or other statements difficult if not impossible. These methods could efficiently allow the identification of potential risks for non-compliance and non-payment of VAT on a cross-border basis. Exchanges of information and effective cross-border controls based upon data collected through the divergent VAT compliance regimes in the different Member States are currently also difficult and burdensome both for the authorities and the operators audited.

Additionally, where governments would like to introduce electronic compliance, a “common” framework is not provided under the current provisions of the Sixth VAT Directive. This will not even be the case, following the implementation of Council Directive 2000/65/EC as regards the value added tax arrangements applicable to certain electronically supplied services and radio and television broadcasting services. This new Directive foresees that some non-established operators, falling under a special scheme, are required to register and submit VAT returns electronically. Furthermore, the new Directive foresees that the Member States must allow as from 1 July 2003, all taxable persons to use electronic means for the fulfilment of some formalities. It concerns the statement of the start, change and cease of activity, the filing of periodical and recapitulative VAT returns and the filing of IC sales listings.

### **2.1.2 Case decided by the European Court of Justice**

Only few cases with regard to VAT obligations have been examined by the European Court of Justice.

The Balocchi case (C-10/92 of 20 October 1993) is the most interesting case with respect to this study. In it, the European Court of Justice ruled that Article 22 (4) and (5) of the Sixth Directive do not authorise Member States to require taxable persons to pay VAT for a taxable period that is not yet finished.

## **2.2 The role of the current provisions with regard to VAT obligations**

Within the current VAT regime, the taxable person is a central player. The VAT system is built up around the concept of the taxable person.

It is indeed the taxable person who is, in a majority of cases, liable to collect the right amount of VAT and to pass it on to the Treasury. On the other hand, the taxable person incurs VAT, which is as a general rule recoverable in the hands of the taxable person and which corresponds with an upstream payment of this VAT.

In order to safeguard the correct payment and deduction of the tax by the taxable person and to allow the tax authorities to control the correct application of the payment and deduction of the tax, various VAT obligations are imposed to the taxable person. These VAT obligations consist amongst others of the obligation for the taxable person to register for VAT, the submission of periodic returns, the payment of the tax and the submission of recapitulative statements.

The obligation for the taxable person to register for VAT not only results in the granting of a unique identification number to the taxable person. It also provides the tax authorities with information on the taxable person and its intended economic activity. The unique identification number is not only an important element in the administrative organisation of the indirect tax authorities but also plays an important role in the functioning of the VAT system itself (such as the application of the place of certain supply rules, the application of exemptions with right to deduct).

The periodic return and the recapitulative statements play an important role as control tool for the authorities. They provide the tax authorities with the necessary information to calculate the VAT due and to assess the deductions made. Based on this information the tax authorities can determine whether any adjustments have to be made. Furthermore, recapitulative statements such as the European Sales Listing play a important role in the framework of the administrative cooperation in the field of indirect taxation.

Taking the above into account, it is fair to say that VAT obligations are an important element in the current VAT regime. They provide the tax authorities tools to check whether or not the VAT provisions have been applied correctly.

### **3. Status of the project**

#### **3.1 Introduction**

During the meeting dated 17 January 2002 between the European Commission and PricewaterhouseCoopers, we agreed that the following general guidelines serve as working assumptions for the continuation of this project:

- The work carried out in phases 1 and 2 of the project must serve the work to be carried out in phase 3 (which is the most important phase);
- Special attention should be paid to the needs of SME's with respect to VAT obligations;
- The opportunities offered by new technologies with respect to the simplification and modernisation of the VAT obligations, especially in the area of on-line compliance and communication with authorities.

#### **3.2 Purpose of the descriptive report – Future steps**

In this report and the enclosed summary tables and questionnaires, we provide you with an overview of our findings the requirements in the areas of VAT registration, the submission of VAT returns (including summary returns), the payment of the tax (including refund of tax credits) and the submission of recapitulative statements currently imposed by the EU Member States.

The next stages of the study will consist of:

- The analysis of the gathered data, with a focus on the usefulness of each obligation, the problems encountered by the economic operators and the cost of the obligations. In this respect meetings will be held with professional organisations of the economic operators and with the national administrations;
- The making of concrete recommendations on the means of simplifying and modernising VAT obligations in the areas of VAT registration, the submission of VAT returns (including summary returns), the payment of the tax (including refund of tax credits) and the submission of recapitulative statements. In this respect special attention will be paid to the opportunities offered by new technologies with regard to compliance with VAT obligations.

During the study special attention will be paid to (i) the needs of SME's with regard to compliance with VAT obligations and (ii) the usefulness of the obligations for the tax administration.

## 4. Overview of the data collected

### 4.1 VAT registration

#### 4.1.1 Communication of the start, change and cease of activity

##### a) Who must be contacted or who are the competent authorities?

(summary tables: 1-6)

In all Member States there is a single contact office for the VAT registration. This means that a person must only contact one office in order to fulfil its obligation of communicating the start, change or cease of its activity. This goes for all taxable persons (established and non-established).

In some Member States such as Austria, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Portugal, Spain, Sweden, The Netherlands and the UK, the communication of the start of the activity of an established person goes hand in hand with some registrations for other taxes and contributions or other purposes. These different registrations can be integrated to a certain extent or even completely.

The other registrations that can be obtained at the contact office vary from Member State to Member State. In Austria, Germany, Greece, Ireland, the Netherlands, Portugal, Sweden and the UK the other registrations are limited to other tax registrations (UK: only indirect tax registrations). In Denmark also social security registrations are possible. In Italy and Spain additional to the tax registrations, also an inscription in the companies' register can be obtained.

In Finland and France all (including non-tax) registrations can be done at a single contact office.

In most of the Member States non-established persons cannot obtain other registrations at the contact office where they have to communicate the start of their activity for VAT purposes. Only Denmark, Finland, Germany, Greece, Ireland, Spain, Sweden and the UK know the concept of a single contact office for other registrations (where applicable) for non-established taxable persons.

##### b) Who must contact the competent authorities?

(summary tables: 7-9)

As a principle it is the taxable person who has to contact the competent authorities and to fulfil the necessary formalities (e.g. submitting of the registration forms). In all Member States, except for Ireland, delegation to a proxy holder is possible. In Ireland the trader, the Company Secretary or another authorised officer should sign the registration form. In Portugal it is however not a normal practice that a third person acts in this respect as a proxy holder.

This goes for established as well as non-established persons. In case of non-established taxable persons, the proxy holder could at the same time be the VAT representative. This is the case in Portugal.

In general, there are no specific restrictions as regards to who can act as proxy holder since in most Member States anyone who has the legal capacity to enter into these agreements can be appointed as proxy holder. In Spain the proxy holder must be a person or legal entity domiciled in Spain. In Greece he must be tax registered in Greece.

c) How must the communication be done?

(summary tables 10-12)

In all Member States (except Greece) communication by normal mail is possible. In Spain administrative mail (is similar to registered mail) and in Italy registered mail should be used. In Greece normal mail is not possible: a person that is physically present must do the communication.

Austria, Germany, Finland and the Netherlands accept communication by fax. However, in Germany the original must be handed in later on. In Finland it depends on the required information.

Communications by electronic means are only possible in Italy and Finland. However, in Finland it depends on the required information. In Austria electronic submission will under certain strict conditions be made available in the near future.

In this respect it should be noted that the Directive 2002/38/EC of 7 May 2002 (amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services) replaces point (a) in paragraph 1 of article 22 of the 6<sup>th</sup> Directive. According to the new Directive, Member States must, subject to conditions which they lay down, allow as from 1 July 2003 the taxable person to state the start, change and cease of its activity by electronic means. The Member States can even impose the use of electronic means.

As regards to the method of communication, the same rules are applicable for established and non-established persons.

#### 4.1.2 Start of activity

a) When must the start of activity be communicated?

(summary tables 13-15)

In 8 of the Member States (i.e. Belgium, Denmark, Greece, Finland, the Netherlands, Portugal, Spain and Sweden) the communication must be done before a taxable person starts its activity.

In 6 of the Member States (i.e. Austria, Germany, France, Ireland, Italy, and Luxembourg), the communication can be done after starting the activity.

In the UK the authorities must be informed before the start of the activity or within 30 days after exceeding the threshold for VAT registration.

In all Member States, the same principles apply to both established and non-established taxable persons.

#### b) Which information must be communicated?

In our country questionnaires the required information has been split up in the following categories:

- Information about identification;
- Information about the establishment;
- Information about the activity;
- Information about the VAT regime applicable to the activity.

The information that is requested from physical persons and legal entities differs in general as regards to identification and establishment. Therefore, these persons are in these cases treated separately.

#### **1) Identification**

*Physical persons - established*  
(summary tables 16-24)

The most frequently requested information can be summarized as follows:

- The name and surname of the physical person: all Member States;
- The trading or abbreviated name: all Member States except Portugal and Spain;
- The date of birth of the person: Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg and the Netherlands;
- Information on identification card or other official identification document: Austria, Belgium, France, Greece, Portugal, Spain, Sweden and the UK.

A minority of the Member States also requests information about e.g. (1) civil status and marriage, (2) place of birth, (3) nationality, ...

*Physical persons – non-established*  
(summary tables 25-42)

For non-established physical persons in general terms the same information is requested.

*Legal entities – established*  
(summary tables 43-50)

The most frequently requested information can be summarized as follows:

- Official name: all Member States;
- Trading or abbreviated name: all Member States except Austria, Germany and Portugal;
- Legal form: all Member States except Denmark and Ireland;
- Information about who can act on behalf of the legal entity: all Member States except Denmark, Luxembourg, Spain and the UK;
- Information about the articles of association must be provided: Austria, Belgium, Germany, Greece, Luxembourg, the Netherlands, Portugal and the UK.

A minority of the Member States also requests information about e.g. (1) official publication of the articles of association, (2) shareholders, ...

*Legal entities – non-established*  
(summary tables 51-76)

For non-established legal entities in general terms the same information is requested.

## **2) Establishment**

*Physical persons – established*  
(summary tables 77-86)

The most frequently requested information can be summarized as follows:

- Address of the main establishment where the taxable activity is carried out: all Member States. In Italy the address of the main establishment where the taxable activity is carried out must only be communicated when it is different from the domicile/legal address. In Belgium, Finland, Greece, Ireland, Luxembourg, the Netherlands, Portugal, Spain and the UK also communication address(es) (telephone, fax, e-mail,...) at this establishment must be mentioned;
- Domicile/legal address: all Member States except Denmark. In Austria, Belgium, Finland, Greece, Ireland, Luxembourg, the Netherlands, Portugal, Spain and Sweden also communication address(es) (telephone, fax, e-mail,...) at this establishment must be mentioned;
- The address from where the enterprise is actually managed: Austria, Belgium, Finland, Germany, Greece, Ireland, Italy (only if different from the above-mentioned addresses), the Netherlands and Spain. In Belgium, Finland, Greece, Ireland, the Netherlands and Spain also communication address(es) (telephone, fax, e-mail,...) at this establishment must be mentioned.

A minority of the Member States also requests information about e.g. the address of other establishments where an activity is carried out, ...

*Physical persons – non-established*  
(summary tables 87-106)

For non-established physical persons in general terms the same information is requested.

*Legal entities – established*  
(summary tables 107-116)

The most frequently requested information can be summarized as follows:

- Address of registered office: all Member States except Denmark and the UK. In Austria, Belgium, Finland, Greece, Ireland, Luxembourg, the Netherlands, Portugal, Spain and Sweden also communication address(es) (telephone, fax, e-mail,...) at this establishment must be mentioned;
- Address of the main establishment where the activity is carried out: all Member States except Luxembourg and Spain. In Italy the address of the main establishment where the taxable activity is carried out must only be communicated when it is different from the address of the registered office. In Austria, Belgium, Finland, Greece, Ireland, the Netherlands, Portugal and the UK also communication address(es) (telephone, fax, e-mail,...) at this establishment must be mentioned;
- Address from where the enterprise is actually managed: Austria, Belgium, Finland, Germany, Greece, Italy (only if different from the above-mentioned addresses), the Netherlands and Spain. In Austria, Belgium, Finland, Greece, the Netherlands and Spain also communication address(es) (telephone, fax, e-mail,...) at this establishment must be mentioned.

A minority of the Member States also requests information about e.g. (1) the address of other establishments where an activity is carried out, (2) place where the books are kept, ...

*Legal entities – non-established*  
(summary tables 117-136)

For non-established legal entities in general terms the same information is requested.

### **3) Activity of the taxable person**

*Established taxable persons*  
(summary tables 137-146)

The most frequently requested information can be summarized as follows:

- Start date of the activity: all Member States;

- Description of the activity: all Member States;
- VAT technical description of (part of) the activities: all Member States except Denmark, Italy and Spain;
- Estimated yearly turnover or whether this turnover has reached certain thresholds: all Member States except France and Greece;
- Commercial, trade or company register: all Member States except Italy and Spain;
- Additional information when the activity is started in the framework of the transfer of a business: Austria, Belgium, Denmark, France, Greece, Ireland, Italy, Luxembourg, the Netherlands and the UK;
- Accounting year: Austria, Denmark, Finland, Greece, Ireland, Luxembourg, Portugal and Sweden.

A minority of the Member States also requests information about e.g. other local or foreign VAT registration numbers, ...

*Non-established taxable persons*  
(summary tables 147-166)

For non-established taxable persons in general terms the same information is requested. However, requests for information about VAT registration numbers that have already been granted outside the concerned Member State occur more frequently (i.e. Austria, Belgium, Denmark, France, Germany, Greece and the Netherlands).

**4) VAT regime of the activity**  
(summary tables 167-169)

It appears from the questionnaire that 10 of the 15 Member States require information on the VAT regime of the established taxable person's activity. It concerns Belgium, Finland, France, Greece, Ireland, Italy, the Netherlands, Portugal, Spain and the UK.

The same goes for the non-established taxable persons (except for France that does not request this information from non-established EU taxable persons).

**4.1.3 VAT groups**  
(summary tables 170-172)

In 8 Member States a sort of VAT grouping (fiscal unity) exists: Austria, Denmark, Germany, Finland, Ireland, the Netherlands, Sweden and the UK. The rules as regards the VAT groups vary considerably from one Member State to another.

In Austria, Denmark, Germany, Ireland, the Netherlands and Sweden, a person that wants to apply to be or becomes a member of a VAT group, must firstly communicate the start of its activity as any ordinary taxable person. In Finland also non-VAT taxable persons can be member of the group. Thus, it is not actually necessary to firstly communicate the start of an activity as a VAT taxable person. However,

members that qualify to be granted with a VAT number remain to have their own VAT number. In the UK only the representative member of a VAT group must fill out form VAT 1 that serves as communication form of the start of a taxable activity of an ordinary taxable person.

In Austria, Denmark, Germany, Finland, Ireland and the Netherlands, the members of a VAT group have their own VAT number that they can communicate to suppliers. In Sweden and the UK the members have no such individual VAT number. In Sweden the number will although be kept for corporate tax or other purposes.

#### 4.1.4 VAT representation

(summary tables 173-183)

##### a) Obligatory appointment of a VAT representative

Established persons must in none of the Member States appoint a VAT representative that is (jointly) liable for the VAT related debts.

Non-established EU persons must in principle appoint a VAT representative that is (jointly) liable for the VAT related debts in Italy and Portugal. In Italy and Portugal the obligatory appointment will disappear because it is expected that these Member States will soon implement EU Directive 2000/65/EC of 17 October 2000. In Greece EU Directive 2000/65/EC has recently been fully implemented what means that non-established EU persons must no longer appoint a VAT representative when registering for VAT in Greece. However, it should be noted that the competent Greek Ministry has not yet issued guidelines or instructions for the implementation of the new procedure. In Finland the appointment of a VAT representative is obligatory for non-established EU persons in case of a voluntary registration.

Non-established non-EU persons must in principle appoint a VAT representative that is (jointly) liable for the VAT related debts in: Belgium Denmark, Greece, France, Italy (in specific cases), the Netherlands (in specific cases) and Portugal. In Spain and Sweden must a VAT representative be appointed but he will not be (jointly) liable for the VAT related debts. In Finland the appointment of a VAT representative is obligatory for non-established non-EU persons in case of a voluntary registration.

##### b) Information to be provided

When a VAT representative is appointed, whether or not (jointly) liable, the following information must be provided:

- information about the identity of the VAT representative: in all Member States However, in France there is no appointment procedure in case of simplified VAT representation. In this case the power of attorney is tacit.

- information about the establishment of the VAT representative: in Belgium, Finland, France (except in case of simplified VAT representation), Greece, Italy, the Netherlands, Portugal, Spain, Sweden and the UK.
- information about the liability of the VAT representative: in Belgium, Greece and the Netherlands.

#### 4.1.5 Granting of a VAT number

(summary tables 184-195)

In all Member States except Austria, Belgium, France and Germany, all established persons that must communicate the start of their activity, receive a VAT registration number with a country code. In Austria and Belgium, some categories of established taxable persons receive a VAT registration number that can only be used for national transactions. In Belgium this is only applicable to established persons. In Germany, a person with only domestic trade does not need to apply for a VAT registration number.

The above is also applicable to the granting of a VAT registration number to non-established taxable persons (with the exception of Austria). All non-established persons receive in Belgium and France also a VAT registration number with a country code at the start of their activity.

The UK is the only Member State in which a VAT registration number can be transferred to another taxable person.

In general a person can have only one VAT registration number. However in Denmark and the UK a taxable person can have more than one VAT registration number. In Denmark multiple VAT registration numbers are possible if the taxable person has several businesses. In the UK multiple VAT registration numbers are possible when a persons carries out its business in separate divisions.

The time needed by the Member States for the granting of a VAT registration number can be summarized as follows:

- Immediately up to one week: Greece, Italy, Portugal and Spain;
- 2 weeks: the UK;
- 2 weeks up to one month: Austria, Belgium (for established taxable persons), Denmark, Finland, France, Ireland, Luxembourg (for established taxable persons), the Netherlands and Sweden;
- 6 up to 8 weeks: Luxembourg (for non-established taxable persons);
- Up to 6 months: Belgium (for non-established taxable persons).

#### 4.1.6 Change of activity (summary tables 196-198)

In Germany and the Netherlands there is no obligation for communicating the change of activity and of other information provided at the start of the activity. In Ireland there is no deadline for communicating the changes. In other Member States the changes must in general be communicated within about 15 days (i.e. Belgium, Denmark, France, Greece, Luxembourg, Portugal and Sweden) or 1 month (i.e. Austria, Italy, Spain and the UK). In Finland the changes have to be communicated immediately.

This goes for both established and non-established taxable persons.

The changes that must be communicated vary significantly from one Member State to another (in this respect we refer to point 3.2. of questionnaire A).

#### 4.1.7 Cease of activity (summary tables 199-201)

All Member States impose an obligation to communicate the cease of activity of a taxable person and impose a certain deadline in this respect.

In Finland and the Netherlands, the cease of activity must be communicated immediately. In other Member States the cease of activity must in general be communicated within about 15 days (i.e. Belgium, Denmark, France, Greece (for physical persons), Luxembourg and Sweden) or 1 month (i.e. Austria, Greece (for legal entities), Italy, Portugal, Spain and the UK). In Germany the tax authorities will be informed with the last VAT return. Ireland imposes a written notification to the tax authorities by the end of the taxable period following the one in which the cease of activity occurred.

This goes for both established and non-established taxable persons.

The information that must be communicated varies significantly from one Member State to another (in this respect we refer to point 4.2. of questionnaire A).

#### 4.1.8 Registration for VAT purposes: simplifications (summary tables 202-213)

Austria, Finland, Germany, Greece, Italy, Portugal, Spain and Sweden do not have specific simplification measures with respect to the obligation to register for VAT as mentioned in article 22 (1) a of the Sixth Directive.

Some Member States have specific simplification measures with respect to the obligation to register for VAT as mentioned in article 22 (1) a of the Sixth Directive. The data collected can be summarized as follows:

- Belgium: relief to register for VAT purposes for taxable persons that perform exclusively exempt transactions without right to deduct;
- Denmark: relief to register for VAT purposes for small enterprises not exceeding a turnover threshold and taxable persons that perform exclusively exempt transactions without right to deduct;
- France: relief to register for VAT purposes for taxable persons that perform exclusively exempt transactions without right to deduct;
- Ireland: relief to register for VAT purposes for small enterprises not exceeding a turnover threshold;
- Luxembourg: relief to register for VAT purposes for small enterprises not exceeding a turnover threshold and taxable persons that perform exclusively exempt transactions without right to deduct;
- The Netherlands: relief to register for VAT purposes for taxable persons that perform exclusively exempt transactions without right to deduct;
- UK: relief to register for VAT purposes for small enterprises not exceeding a turnover threshold, for persons only performing exempt services.

Only the UK has specific simplification measures with respect to the obligation to register for VAT as mentioned in article 22 (1) b of the Sixth Directive, i.e. a relief to register for VAT purposes for persons only performing exempt services and for persons only performing zero-rated services.

#### 4.1.9 Miscellaneous

In none of the Member States specific measures, imposing additional formalities in the field of VAT registration, are explicitly taken under article 22(8) of the Sixth Directive.

## **4.2 Submission of the declarations/returns (including summary declarations/returns)**

### **4.2.1 Types of VAT returns** (summary tables: 213, 216 and 218)

Generally speaking, there are three types of VAT returns. Based on our findings about the practice in the various Member States, these VAT returns could be described as follows:

Periodical VAT returns: a periodical VAT return is a VAT return which main purpose is the reporting of the information needed for the calculation of the VAT due and VAT deductible related to the period covered by the periodical VAT return. The different periods covered by the periodical VAT return form an uninterrupted sequence in time.

Non-periodical VAT returns: a non-periodical VAT return is a VAT return which main purpose is the reporting of the information needed for the calculation of the VAT due and VAT deductible related to the period or transactions covered by the non-periodical VAT return. The periods covered by the non-periodical VAT returns do not form an uninterrupted sequence in time. Non-periodical VAT returns are filed according to the needs.

Recapitulative (or summarising) VAT returns: a recapitulative (or summarising) VAT return is a VAT return which main purpose is to recapitulate or summarise the information provided in the periodical VAT return and, in addition, to provide more details about the transactions reported in the periodical VAT returns. To the extent the latter function of the recapitulative VAT return is more important, in practice it becomes more difficult to draw a clear distinction between a recapitulative VAT return and a recapitulative statement.

It appears from the questionnaires that it varies from Member State to Member State which types of returns are effectively required to be submitted under local VAT legislation. The data collected in this respect can be summarized as follows:

- Periodical VAT returns: all Member States;
- Non-periodical VAT returns: Belgium, Denmark, Germany, Greece, Spain and the UK (only with approval from Customs);
- Recapitulative or summarising VAT returns: Austria, Germany, Greece, France, Ireland, Italy, Luxembourg, Portugal and Spain.

In the Netherlands it is possible that for incidental transactions a “once-only” VAT return is submitted in paper format to the tax authorities.

#### 4.2.2 Period covered by the VAT returns

##### a) Periodical VAT returns

(summary tables: 214 and 215)

It appears from the questionnaires that the tax period covered by periodical VAT returns varies from Member State to Member State. The data collected in this respect can be summarized as follows:

- Monthly return: all Member States, except Italy. In Germany the monthly return is preliminary;
- Bimonthly return: Greece and Ireland;
- Quarterly return: Austria, Belgium, Denmark, France, Germany (preliminary return), Greece, Luxembourg, the Netherlands, Portugal, Spain and the UK;
- Half-yearly return: Denmark;
- Yearly return: Finland, Ireland, Italy, Luxembourg, the Netherlands, Sweden and the UK.

In Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Portugal and the UK the taxable person can in some cases choose the period covered by its VAT return.

##### b) Non-periodical VAT returns

(summary tables: 217)

In Belgium and Spain the non-periodical VAT returns cover a trimester of a calendar year. In Germany and Greece no specific period is covered, as a return has to be submitted after each transaction. In Denmark neither a specific period is covered, but the return normally relates to a period of less than three months. In the UK it is possible for a taxable person to apply for practical reasons for the use of non-standard tax periods.

##### c) Recapitulative VAT returns

(summary tables: 219)

All Member States (except Ireland) that require the submission of recapitulative VAT returns impose that the period covered by these returns is a calendar year. In Ireland the recapitulative return covers as a general rule the financial year of the taxable person. However, the tax authorities can upon request approve another twelve-months period.

### 4.2.3 Method of submission of the VAT returns

#### a) Periodical VAT returns

(summary tables: 220-224)

In 13 of the 15 Member States (exceptions are Greece and Italy) periodical VAT returns can be filed by sending the VAT return by mail. In Greece periodical VAT returns in paper format can only be handed over to the tax authorities in person (see however below). In Spain the periodical VAT returns can only be sent by mail to the authorities in case the VAT balance is an amount in favour of the taxable person and he decides to maintain such VAT balance to be offset with future output VAT or it is a nil VAT return. In other cases (the VAT balance is in favour of the Spanish authorities or the taxable person decides to ask for the refund of the VAT balance) the VAT return must be filed before the relevant financial entity.

None of the Member States (except Finland) accepts the submission of periodical VAT returns by fax. However, the submission by fax of periodical VAT returns is not the preferred option.

In 13 of the 15 Member States (exceptions are Austria and Luxembourg) the submission of periodical VAT returns by electronic means is possible. In Italy the submission by electronic means is even obligatory. The same goes for France for established taxable persons in case the net turnover of the previous financial year exceeds EUR 15,000,000. In Greece submission by electronic means is obligatory for taxable persons maintaining double-entry accounting books (as from 1 July 2002, the same obligation also applies to the other taxable persons). In Sweden however electronic submission of periodical VAT returns is not yet possible for all taxable persons since the electronic submission of VAT returns is still in a test period. Whereas the electronic submission of VAT returns is not yet possible in Austria and Luxembourg, this will be made possible in the future (in Austria as from 1 January 2003). In Portugal electronic filing is not allowed when a VAT refund request is made.

In this respect it should be noted that the Directive 2002/38/EC of 7 May 2002 (amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services) replaces point (a) in paragraph 4 of article 22 of the 6<sup>th</sup> Directive. According to the new Directive, Member States must, subject to conditions which they lay down, allow as from 1 July 2003 the taxable person to file its periodical VAT returns by electronic means. The Member States can even impose the use of electronic means.

#### b) Non-periodical VAT returns

(summary tables: 225-229)

In Belgium, Denmark, Germany and the UK, these returns can be filed with the tax authorities by sending them by mail. In Greece non-periodical VAT returns in paper format can only be handed over to the tax authorities in person. In Spain the non-

periodical VAT returns can only be sent by mail to the authorities in case the VAT balance is an amount in favour of the taxable person and he decides to maintain such VAT balance to be offset with future output VAT or it is a nil VAT return. In other cases (the VAT balance is in favour of the Spanish authorities or the taxable person decides to ask for the refund of the VAT balance) the VAT return must be filed before the relevant financial entity.

None of these Member States accepts the submission of non-periodical VAT returns by fax.

Only the UK accepts the submission of non-periodical VAT returns by electronic means.

### c) Recapitulative VAT returns

(summary tables: 230-234)

In Austria, France, Germany, Ireland, Luxembourg and Spain, these returns can be filed with the tax authorities by sending them by mail. In Spain administrative mail (similar to registered mail) is required. Filing by mail is not possible in Greece, Italy and Portugal. In Greece recapitulative VAT returns in paper format can only be handed over to the tax authorities in person. The latter is also possible in Portugal on the condition that the return only contains one page.

None of these Member States accepts the submission of recapitulative VAT returns by fax.

France, Germany, Ireland, Italy, Portugal and Spain accept the submission of recapitulative VAT returns by electronic means. In Italy the submission by electronic means is even obligatory. The same goes for Portugal in case the recapitulative VAT return contains more than one page. Whereas the electronic submission of recapitulative VAT returns is not yet possible in Austria and Luxembourg, this will be made possible in the future (in Austria as from 1 January 2003). For Germany it has to be noted that parallel a signed print out of the electronically filed recapitulative VAT return must be sent to the the competent tax office and that the electronic filing of the recapitulative VAT return is not admitted in all Federal States of Germany.

In this respect it should be noted that the Directive 2002/38/EC of 7 May 2002 (amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services) replaces point (a) in paragraph 6 of article 22 of the 6<sup>th</sup> Directive. According to the new Directive Member States must, subject to conditions which they lay down, allow as from 1 July 2003 the taxable person to file its recapitulative VAT returns by electronic means. The Member States can even impose the use of electronic means.

#### 4.2.4 Technical requirements where submission of VAT returns by electronic means is possible (country questionnaires: 141-146 / summary tables 224, 229, 234 and the addendum regarding the electronic filing of VAT returns)

It appears from the country questionnaires and the addendum to the summary tables regarding the electronic filing of VAT returns that where submission of VAT returns by electronic means is possible, each Member State imposes its own particular conditions in this respect. The data collected in this respect can be summarized as follows: In some Member States different systems of electronic filing co-exist. This is the case for: Belgium, France, Italy and the Netherlands. Belgium and France have both a system of Internet-filing and a system based on EDI (in order to allow accountants, tax consultants and other interested persons to file more than one VAT return at the same time electronically). In Italy there is a system of Internet-filing as well as the filing through a secure electronic network of the Italian government (i.e. Entratel). In the Netherlands, there is a system based on EDI, EDItax and a system called TeleTax on which very little information is available. Internet filing is planned in the Netherlands, but the project is in a very early stage. It is a pilot project that includes only a limited number of companies.

##### a) Internet-filing

The following Member States allow electronic filing through the Internet: Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Portugal, Spain, Sweden and the UK. The Netherlands is working on a project to submit VAT returns via the Internet.

##### *Electronic signature*

The following Member States require that electronic VAT returns submitted through the Internet are signed with an electronic signature: Belgium, France, Ireland, Sweden and the UK.

In Belgium, France, Ireland and the UK the electronic signature must be an advanced electronic signature based on a qualified certificate. In Sweden an advanced electronic signature linked to a certificate suffices.

The role of the e-signature in these Member States is identification (authenticity of origin). In Belgium, France, Ireland and the UK, also the protection of the message (integrity of content) is considered as one of the functions of the e-signature.

The position of the Netherlands is for the time being unclear as the project has only been launched as a pilot.

*Access Code and certificates*

In the following Member States the authorities provide the taxable person with an access code (e.g. PIN Code): Denmark, Greece, Ireland, Italy, Portugal, Sweden and the UK. In Greece and Spain also a qualified certificate is used.

The role of the access code in these Member States is identification (authenticity of origin).

*Parallel paper filing*

No Member States, except Germany, require the parallel filing of paper VAT returns in case of Internet-filing. In Germany it concerns however only the annual (final) return. Furthermore, it should be noted that not all Federal States of Germany allow the electronic filing of the annual (final) return.

*Agreement or detailed application*

In the following Member States the person that intends to use Internet-filing must sign an agreement with the authorities or file a detailed application: France, Germany, Italy and Sweden.

*Preliminary investigations by the authorities*

None of the Member States first investigate whether the person that intends to use electronic filing sufficiently complies with the VAT legislation (payment of tax, VAT bookkeeping, etc.).

*Operator*

In general, the taxable person is able to send its VAT returns through the Internet directly to the authorities. An exception is Finland where the use of an authorised operator is mandatory.

b) EDI-filing

The following Member States implemented an electronic filing method that uses the EDI-standard: Belgium, France and the Netherlands.

*Network*

In Belgium and the Netherlands EDI-filing must be done using a secure network.

*Operator*

In the Netherlands, EDI-filing can only be done via a so-called “intermediary fiscal compliance partner”. In France taxable persons that wish to use EDI-filing must either obtain EDI partner status or appoint a third party (an EDI partner authorised by the tax authorities) to transmit the returns on their behalf and, as the case may be, information enabling the payment order to be given.

*Agreement or detailed application*

In Belgium, France and the Netherlands the person that intends to use EDI-filing must sign an agreement with the authorities or file a detailed application.

*Preliminary investigations by the authorities*

None of the Member States first investigate whether the person that intends to use electronic filing sufficiently complies with the VAT legislation (payment of tax, VAT bookkeeping, etc.). However, in Belgium a successful test period during which the EDI-system of the taxable person is checked, must be completed. During the test period parallel paper VAT returns must be filed.

*Identification means*

In Belgium there is a personal mailbox in a secure X-400 network (login and password must be used in order to have access) as well as test period during which the authorities collect information and parallel paper VAT returns must be filed. In France all communication must bear the digital signature of the EDI-partner. In the Netherlands a certificate is used for identification purposes.

#### 4.2.5 Submission of VAT returns by non-established taxable persons (summary tables: 235-240)

The submission of periodical, and where applicable, of non-periodical and/or recapitulative VAT returns by non-established taxable persons are in all Member States subject to the same procedures (i.e. forms, information to be provided, use of language,...) as those applicable to established taxable persons.

With regard to the possibility to submit VAT returns by electronic means, there are in some countries more restrictive rules for non-established taxable persons. In this respect it appears from the questionnaires that Greece, the Netherlands and Sweden do not allow the submission of periodical VAT returns by electronic means by non-established taxable persons, where this is allowed for established taxable persons. It also appears that Spain does not allow the submission of recapitulative VAT returns by electronic means by non-established taxable persons, where this is allowed for established taxable persons. France does only allow non-established persons to submit their VAT returns by electronic means through their tax representative or agent in France.

Furthermore, non-established taxable persons could face some additional difficulties.

- It appears from the addendum to the summary tables regarding the electronic filing of VAT returns that in Belgium, France and the UK a certificate must be acquired from a certification service provider that is accredited by the authorities. In Belgium, France and the UK these certification service providers are Belgian, French or British.
- In Spain the non-established taxable person must present itself to the offices of the Spanish tax administration in order to be able to apply for a “user certificate”.
- In Finland it depends on the operator whether he can provide an e-filing service to a non-established taxable person.

#### 4.2.6 Submission of VAT returns by VAT groups (summary tables: 241-243)

With respect to the submission of VAT returns, the Member States where the concept of a VAT group is known (i.e. Austria, Germany, Denmark, Finland, Ireland, Italy, the Netherlands, Sweden and the UK), can be subdivided in three groups:

- In Austria, Denmark, Finland, Ireland, Sweden and the UK only one VAT return for the whole VAT group has to be filed;
- In Germany and Italy each member of the group has to file a VAT return;
- The Netherlands allows both systems for the submission of VAT returns.

#### 4.2.7 Submission of VAT returns: simplifications

##### a) Periodical VAT returns (summary tables: 244)

All Member States have in one way or another implemented specific simplification measures for SME's with respect to the filing of periodical VAT returns. The data collected can be summarized as follows:

- Austria: (1) possibility to file quarterly returns instead of monthly returns if the yearly turnover does not exceed a certain threshold and (2) relief to submit VAT returns for farmers benefiting from the flat rate scheme;
- Belgium: (1) possibility to file quarterly returns instead of monthly returns if the yearly turnover does not exceed a certain threshold and (2) relief to submit periodical VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct and some specific categories of taxable persons;
- Denmark: possibility to file quarterly or half-yearly returns instead of monthly returns if the yearly turnover does not exceed a certain threshold;
- Germany: (1) possibility to file quarterly preliminary returns instead of monthly preliminary returns if the yearly turnover does not exceed a certain threshold and (2) relief of filing returns for small undertakings benefiting from a VAT relief arrangement;
- Greece: Farmers benefiting from the flat rate scheme and small undertakings benefiting from a VAT relief arrangement must only file periodical VAT returns when they perform intra-Community acquisitions of goods.
- Finland: possibility for primary producers (e.g. farmers) to file annual returns instead of monthly returns;
- France: (1) relief to submit periodical VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct, (2) taxable persons who operate a seasonal

business may be relieved to file periodical VAT returns during the closing-down of the business and (3) person who do not carry out more than four transactions a year may be authorized to file VAT returns only for the period concerned;

- Ireland: (1) possibility for small traders to file annual returns (authorisation required), (2) possibility for traders paying by monthly direct debit to file annual returns and (3) relief to submit periodical VAT returns for farmers benefiting from the flat rate scheme, taxable persons that perform exclusively exempt transactions without any right to deduct and traders that not exceed certain turnover thresholds;
- Italy: relief to submit yearly periodical VAT returns for farmers benefiting from the flat rate scheme, taxable persons that perform exclusively exempt transactions (on the condition e.g. they did not perform intra-Community acquisitions and/or did not have to apply the reverse charge) and some other specific categories of taxable persons;
- Luxembourg: (1) filing of quarterly or annual returns if the yearly turnover does not exceed a certain threshold and (2) relief to submit periodical VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct and traders that not exceed certain turnover thresholds;
- The Netherlands: (1) filing of quarterly or annual returns if the yearly turnover does not exceed a certain threshold and (2) relief to submit periodical VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct;
- Portugal: relief to submit periodical VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct;
- Spain: (1) filing of quarterly returns if the yearly turnover does not exceed a certain threshold and (2) relief to submit periodical VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct;
- Sweden: (1) possibility to file annual VAT returns or to report VAT in the annual income tax return instead of submitting of monthly VAT returns if the yearly turnover does not exceed a certain thresholds;
- The UK: (1) possibility to file annual VAT returns if certain conditions are met and (2) relief to submit VAT returns for persons only performing exempt services and persons only performing zero-rated.

#### b) Non-periodical VAT returns

(summary tables: 245)

Belgium, Denmark and Spain do not have any specific simplification measures for SME's with respect to the filing of non-periodical VAT returns.

The following Member States have specific simplification measures with respect to the filing of non-periodical VAT returns:

- Germany: relief of filing returns for small undertakings benefiting from a VAT relief arrangement;
- Greece and Spain: In some cases, persons benefiting from the special regime for small undertakings must file non-periodical VAT returns when they become liable to pay VAT on some transactions.

#### c) Recapitulative VAT returns

(summary tables: 246)

France does not have any specific simplification measures for SME's with respect to the filing of recapitulative VAT returns.

The following Member States have specific simplification measures with respect to the filing of recapitulative VAT returns:

- Austria: relief to submit VAT returns for small undertakings benefiting from a VAT relief arrangement;
- Germany: relief of filing returns for small undertakings benefiting from a VAT relief arrangement;
- Greece: Farmers benefiting from the flat rate scheme and small undertakings benefiting from a VAT relief arrangement must only file recapitulative VAT returns when they must file periodical VAT returns.
- Ireland: relief to submit yearly return of trading details for farmers benefiting from the flat rate scheme, taxable persons that perform exclusively exempt transactions without any right to deduct and traders that not exceed certain turnover thresholds;
- Italy: relief to submit yearly recapitulative return for taxable persons exempt from the obligation to submit the yearly periodical return and individuals that do not exceed a certain threshold;
- Luxembourg: relief to submit recapitulative VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct, taxable persons filing yearly periodical VAT returns and traders that not exceed certain turnover thresholds;
- Portugal: relief to submit recapitulative VAT returns for farmers benefiting from the flat rate scheme, small undertakings benefiting from a VAT relief arrangement, taxable persons that perform exclusively exempt transactions without any right to deduct;
- Spain: relief to submit recapitulative VAT returns for taxable persons obliged to file non-periodical VAT returns and taxable persons that perform exclusively exempt transactions without any right to deduct.

### **4.3. Payment and refund of the balance of the VAT return**

#### 4.3.1 Payment of the balance

##### a) Timing

(summary tables: 247)

Except for Germany and Italy, the deadline for the payment is as a general rule the same as the deadline for the filing of the VAT return. In Germany the deadline is the 10<sup>th</sup> day after the filing of the VAT return. In Italy there is a system of periodical settlements and a yearly VAT return.

##### b) Method

(summary tables: 248)

In all Member States the payment can be done by bank transfer. However, in Greece is payment by bank transfer only possible for persons who file their VAT return via Internet. In Belgium, Finland, Luxembourg and Sweden it is obligatory to pay the balance by bank transfer. In France a bank transfer is mandatory if the turnover of the previous calendar year exceeds EUR 760,000.

In 13 of the Member States a bank transfer can be made from a foreign bank account. Only in Greece<sup>10</sup> and Portugal<sup>11</sup>, the taxable person is required having a local bank account.

In Austria, Denmark, France (in case bank transfer is not mandatory), Greece, Spain, the UK, Ireland, Italy, the Netherlands and Portugal also payment by cheque is possible.

In Austria, Denmark, France (in case bank transfer is not mandatory), Germany, Ireland, the Netherlands and Spain payment in cash is possible.

#### 4.3.2 Bank domiciliation systems (direct debit)

(summary tables: 249)

In all Member States it is in principle the taxable person who must take action in order to do payments via bank transfer. In these Member States, the authorities are not allowed to take themselves money from a bank account of the taxable person.

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<sup>10</sup> According to Ministerial Circular No. 1054/2.3.2001, only the banks that are members of the DIAS system (a Greek inter-bank payments system) can transfer money from their customers' accounts to the Bank of Greece in order to pay the VAT. We repeat that payment by bank transfer is only possible for persons filing their VAT returns through the Internet.

<sup>11</sup> In Portugal payment by bank transfer is only possible through a Portuguese cash dispenser system, where the taxable person can select the topic "payments to the State" under which amongst other VAT payments can be selected. In other cases, a bank cheque should be used. This cheque must be withdrawn from a bank in Portugal.

In Denmark it is possible to pay the VAT via automatic funds transfer when filing VAT returns via the internet. This arrangement is optional, i.e. a taxable person can always choose to transfer the necessary funds himself.

In Germany the authorities can directly debit the account of the taxable person when the taxable person has given his approval in advance in a special form. It is possible to authorise the authorities separately for prepayments due further to preliminary VAT returns or payments due from annual VAT returns. The taxable person is not obliged to guarantee that on his bank account the sufficient amount is available. However, the bank is not obliged to execute the payment if there are no sufficient funds on the account.

In Greece the taxable person can agree with a bank allowed to do VAT payments towards the authorities (see footnote 11) to transfer automatically the necessary funds, but this remains an initiative of the taxable person.

In Ireland the taxable person can opt to use a direct debit method. When the direct debit method is used, the taxpayer and Revenue agree in advance to the date and amount that regular payments will be made from the taxpayer's bank account. No formal agreement is required on behalf of the taxpayer guaranteeing that he will maintain a certain amount of funds in the relevant bank account. However, a taxpayer should have sufficient funds in his bank account to cover any payments. Taxpayers that utilise the Revenue's online service may use both a direct debit service or make discretionary payments. In either case, no formal agreement is required to maintain funds.

In Luxembourg there is although a specific situation in which the authorities can take money from the bank account of a non-established taxpayer. It concerns the situation in which the non-established taxpayer does not pay the VAT on a regular basis (or does not pay some penalties or the final assessment). The money taken from the bank account is in this case added to the guarantee which has been installed during the registration process.

#### 4.3.3 Prepayments (summary tables: 250)

Payment of the balance results in a majority of Member States only from the filing of a VAT return. It appears from the questionnaires that Denmark, Greece, Finland, Luxembourg, the Netherlands, Portugal, Spain and Sweden do not impose any obligation to prepay VAT. In principle the same goes for Ireland. However, in Ireland a prepayment of VAT can be imposed as one of the conditions for traders that are granted the possibility to file annual VAT returns.

Austria currently imposes a special annual prepayment for budgetary reasons. The prepayment equals one eleventh of the total VAT liability incurred from September of the previous year up to August of the current year. However this prepayment will be abolished in the future.

In the remaining 5 Member States, the system of prepayment varies from one Member State to another. In these Member States prepayments of VAT are foreseen in various situations:

- Belgium: (1) monthly prepayments by taxable person filing quarterly VAT returns, (2) the annual prepayment by taxable persons filing monthly VAT returns for the tax period of December and (3) the prepayment for the granting of a licence for the deferral of the payment of the import VAT;
- France: (1) provisional prepayments for taxable person with problems to meet the deadlines for filing their monthly VAT return, (2) provisional prepayments during summer holidays for taxable persons filing monthly VAT returns and (3) quarterly prepayment by SME's taxed under a simplified arrangement;
- Germany: (1) the regular prepayment (in respect of the preliminary VAT returns) is calculated by the taxpayer on the basis of the turnover of the precedent filing period (monthly or quarterly filing period) and (2) a special prepayment is required in order to obtain a permanent extension of the deadline for the filing of VAT returns. This one-time prepayment amounts to one eleventh of the total of all regular prepayments of the preceding calendar year;
- Italy: an annual prepayment with regard to the estimated VAT debt concerning the last settlement period of the year;
- The UK: monthly prepayments by taxable persons filing quarterly VAT returns whose annual VAT liability exceeds £2 million.

All Member States that impose prepayments (except for the UK), allow that these prepayments are made from a foreign bank account.

#### 4.3.4 Payment of import VAT (summary tables: 251-252)

In a majority of the Member States it is obligatory to pay import VAT at the border (to Customs). Only 6 Member States allow a deferment of payment of import VAT to the VAT return (see below).

Payment at the border:

- The payment of import VAT can be done in 7 Member States by bank transfer, by cheque or in cash: Austria, Belgium, Denmark, France, the Netherlands, Spain and Sweden;
- In 3 Member States a bank transfer is not allowed: Greece, Ireland and Italy;
- In 3 Member States a cheque is not allowed: Finland, Germany and Luxembourg;
- In 3 Member States cash is not allowed: Luxembourg, Portugal and the UK.

Deferment of the payment of the import VAT to the VAT return is possible in 6 Member States: Belgium, Denmark, Germany, Ireland, Luxembourg and the Netherlands. Except for Luxembourg, certain conditions must be fulfilled in this respect.

#### 4.3.5 Refund of the tax repayments (summary tables: 253-254)

In Denmark, Germany, Ireland, the Netherlands, Sweden and the UK a refundable amount that results from the balance of a VAT return is automatically reimbursed. This means that no special intervention or request from the taxable person is required. However the authorities can make investigations before reimbursement.

In the other 9 Member States, the refundable amount is automatically carried forward to the next tax period in order to be offset against future VAT debts. In this case the taxable person must in general fulfil certain conditions and formalities before its VAT credit is effectively reimbursed.

Reimbursement can in almost all Member States be done by bank transfer. In Portugal only reimbursement by cheque is possible. In none of the Member States a reimbursement in cash is possible.

Only in Austria, Finland, France, Germany, Luxembourg and the Netherlands the authorities transfer the refund amount to a foreign bank account at the request of the taxable person. However, in Finland it must concern a bank account in another EU Member State and in Luxembourg the authorities do not prefer it.

#### 4.3.6 Miscellaneous (summary tables: 255-256)

- In 9 Member States it is possible for the taxable person to offset the balance of its VAT return against payments or refunds of other taxes: Austria, Denmark, Germany, Italy, the Netherlands, Spain, Sweden and the UK. In Ireland this offset should also be possible, but the Revenue does not encourage it.
- Only in Belgium and the UK there are specificities for SME's. In both countries these specificities are related to a prepayment system.
  - In Belgium a taxable person with limited turnover is entitled to file quarterly VAT returns. This triggers monthly prepayments during the calendar quarter.
  - In the UK VAT registered persons may elect to complete annual VAT returns once they have been registered for 12 months and their annual value of taxable supplies is between £300,000 - £600,000. Where the annual value of taxable supplies exceeds £100,000 per annum, the net

VAT liability exceeds £2,000 per annum the VAT registered person is required to make nine monthly payments based on an estimate of the VAT due followed by a tenth balancing payment due with the annual VAT return. Approval to do so must have been granted by the UK tax authorities

The requirement that a business has to have been VAT registered for 12 months prior to joining the annual accounting scheme is abolished as from 25 April 2002. Therefore, with effect from 25 April 2002, the scheme is available to start up businesses with a taxable turnover up to £100,000. As regards the nine monthly payments, an option for businesses to pay three larger instalments is also introduced as from 25 April 2002.

#### **4.4. Submission of the recapitulative statements**

##### **4.4.1 Types of recapitulative statements**

(summary tables: 259-261)

All Member States impose the submission of a recapitulative statement as meant in article 22 (6)(b) of the Sixth Directive (i.e. the IC sales listing).

Only three Member States (i.e. Greece, Italy and Spain) require the submission of the recapitulative statement as meant in article 22 (6)(e) of the Sixth Directive (i.e. an IC acquisitions listing).

Out of the enclosed questionnaires it also appears that some Member States impose the submission of other recapitulative statements (article 22 (8) of the Sixth Directive). It concerns:

- Belgium: a yearly listing of domestic supplies to Belgian VAT registered customer;
- Germany: a yearly recapitulative self-assessment return;
- Ireland: an annual return of trading details for taxable persons other than those on an annual VAT return basis;
- Italy: a sales listing for supplies to operators established in San Marino in case also intra-Community supplies are made;
- Portugal: an annual return/statement including a summary of operations, a listing of suppliers and customers for transactions exceeding EUR 49,879.79, a summary under special regimes and a summary of operations carried out in the Azores and Madeira. Furthermore, taxable persons falling within the scope of the special regime for small retailers have to file an annual return detailing the acquisitions made in the preceding year;
- Spain: a recapitulative statement (form 347) only including domestic sales and purchases subject to VAT.

##### **4.4.2 Period covered by the recapitulative statements**

(summary tables: 262-264)

In most of the Member States the *IC sales listing* has as a general rule to be submitted on a quarterly basis. In Ireland submission on a monthly basis is permitted, whereas in France it is obligatory to submit the IC sales listing on a monthly basis. In Portugal the IC sales listing has to be submitted on a monthly or quarterly basis depending whether the taxable person has to file monthly or quarterly VAT returns. In Italy the IC sales listing has to be submitted on a monthly, quarterly or annual basis depending on the amount of intra-Community dispatches in the previous year.

With respect to the submission of an *IC acquisitions listing*, in Greece a submission on a quarterly basis is required. The same goes as a general rule for Spain. In Italy

the IC acquisitions listing has to be submitted on a monthly, quarterly or annual basis depending on the amount of intra-Community acquisitions in the previous year.

The Member States that impose the submission of *other recapitulative statements* as meant by article 22 (8) of the Sixth Directive (except Italy), require a submission of these statements on an annual basis. In Ireland the return of trading details may cover a 12-month period ending on the taxable person's financial year-end. In Italy the sales listing for supplies to San Marino has to be submitted on a monthly, quarterly or annual basis depending on the amount of intra-Community dispatches in the previous year.

#### 4.4.3 Filing method (summary tables: 265-267)

Except for Greece, all Member States accept that the recapitulative statements can be filed on paper and by mail. In Italy and Spain, however, it is required to send the recapitulative statements by registered mail (in Spain administrative mail, similar to registered mail). Greece only accepts these statements to be submitted to the authorities by a physical person.

Submission of the recapitulative statements by fax is only possible in Finland.

It also appears from the questionnaires that, as a principle, submission of the (or of some of the) recapitulative statements by electronic means is already possible in all Member States, except Greece and the UK. However, in most of the Member States where the electronic filing is accepted as a principle, specific conditions are imposed to the electronic filing of the recapitulative statements:

- Some Member States allow submission on a floppy disk or magnetic tape: Belgium, France, Ireland, Italy (only on floppy disk), Luxembourg (only on floppy disk), the Netherlands, Portugal (only obligatory submission of yearly statement containing more than one page), Spain (only form 347 – only on floppy disk);
- Some Member States accept the filing of statements by other electronic means:
  - Austria (via data line);
  - Germany (the yearly statement can be submitted by machine-readable data processing or data transmission, using software authorized by the tax authorities);
  - France (file transfers or e-mail, or through the customs' server allowing interactive data transmission);
  - Ireland, Italy (authorisation to be requested) and the Netherlands (EDI);
- Other Member States do not impose specific requirements regarding the electronic submission of recapitulative statements (Denmark, Finland).

Greece and the UK are working on projects in order to allow the electronic filing of recapitulative statements, whereas there are projects in Belgium and Luxembourg to extend the already existing possibilities.

In this respect it should be noted that the Directive 2002/38/EC of 7 May 2002 (amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services) replaces point (b) in paragraph 6 of article 22 of the 6<sup>th</sup> Directive. According to the new Directive Member States must, subject to conditions which they lay down, allow as from 1 July 2003 the taxable person to file their IC sales listing by electronic means. The Member States can even impose the use of electronic means.

#### 4.4.4 Filing of recapitulative statements by non-established VAT taxable persons (summary tables: 268-269)

Except for Germany, the filing of recapitulative statements by non-established VAT taxable persons is in the Member States subject to the same procedures as those applicable to the established VAT taxable person.

#### 4.4.5 Filing of recapitulative statements by VAT groups (summary tables: 270)

With respect to the filing of recapitulative statements, the Member States where the concept of a VAT group is known (i.e. Austria, Denmark, Finland, Germany, Ireland, Italy, the Netherlands, Sweden and the UK), can be subdivided in three groups:

- In Austria, Finland, Germany, Ireland and Italy each member of the VAT group has to submit its own recapitulative statements;
- In Denmark<sup>12</sup> and Sweden<sup>13</sup> it is required that the recapitulative statements are filed by the principal of the VAT group;
- The Netherlands<sup>14</sup> and the UK<sup>15</sup> allow both systems for the submission of the recapitulative statements.

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<sup>12</sup> A member of a Danish VAT group must use the VAT number of the group for its Intra-Community supplies of goods.

<sup>13</sup> A member of a Swedish VAT group must use the VAT number of the group for its Intra-Community supplies of goods.

<sup>14</sup> In the Netherlands, an IC sales listing per member of the group is filed when the members have opted to file separate VAT returns (in this case each member is provided with a “sub-VAT number” based on the VAT number of the group). In case the members of the group do not separately file VAT returns, only the VAT group as such is provided with a VAT number. Under this VAT number is then a single IC sales listing filed for all members of the group.

<sup>15</sup> A member of a UK VAT group must use the VAT number of the group for its Intra-Community supplies of goods. Even when each member files its own IC sales listing, this is done under the VAT number of the group.

#### 4.4.6 Filing of recapitulative statements: simplifications (summary tables: 271)

Austria, Finland and Greece do not have any simplification measures for SME's with respect to the filing of recapitulative statements.

The following Member States have specific simplification measures with respect to the filing of recapitulative statements:

- Belgium: (1) relief to submit the European sales listing for small undertakings benefiting from a VAT relief arrangement and taxable persons that perform exclusively exempt transactions without any right to deduct and (2) possibility for farmers benefiting from the flat rate scheme to submit the European sales listing on an annual basis;
- Denmark: implementation of article 22 (12)(a) and (b) of the Sixth Directive, i.e. possibility to submit the European sales listing on an annual or six months basis instead of quarterly submission;
- France: relief to submit the European sales listing for small undertakings benefiting from a VAT relief arrangement, farmers benefiting from the flat rate scheme, taxable person that perform exclusively exempt transactions without any right to deduct;
- Germany: (1) implementation of article 22 (12)(b) allowing annual submission of European sales listing and (2) relief to submit the European sales listing for small undertakings benefiting from a VAT relief arrangement;
- Ireland: under certain conditions possibility to submit the European sales listing on an annual basis;
- Italy: (1) under certain conditions possibility to submit an annual European sales listing, European acquisitions listing and sales listing for supplies to San Marino and (2) relief to submit the European acquisitions listing for small undertakings benefiting from a VAT relief arrangement, farmers benefiting from the flat rate scheme, taxable person without any right to deduct and non-taxable legal bodies;
- Luxembourg: under certain conditions possibility to submit the European sales listing or a simplified European sales listing on an annual basis;
- The Netherlands: under certain conditions possibility to submit a simplified European sales listing on an annual basis;
- Portugal: fully exempt taxable persons only have to submit form M and N of the annual return;
- Spain: (1) under certain conditions possibility to submit the European sales listing on an annual basis and (2) relief to submit the recapitulative statement (form 347) for small undertakings benefiting from a VAT relief arrangement, farmers benefiting from the flat rate scheme, non-established taxable persons and taxable persons with a low turnover;
- Sweden: under certain conditions possibility to submit the European sales listing on an annual basis;

- The UK: (1) traders submitting annual VAT returns can under certain conditions apply to submit an annual European sales listing, (2) possibility (under certain conditions) for taxable persons with low turnovers to submit a simplified annual European sales listing and (3) relief to submit recapitulative statements for persons only performing exempt services and persons only performing zero-rated services who are not required to submit VAT returns.

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