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DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
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VAT and other turnover taxes

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Consultation Paper

Simplifying VAT obligations

The one-stop system

Note

This paper is intended for consultation of all parties interested in the proposed VAT one-stop system.

The sole purpose of the consultation exercise is to provide input for the discussion, gather relevant feedback and assist the Commission in developing its thinking on the subject.

This document does not necessarily reflect the views of the Commission of the European Communities, nor does it signify that the Commission is committed to any official initiative in this area.

Comments are invited on the paper by 31 July 2004 at the latest.

Submissions may be made in writing, by fax or by e-mail to the attention of either Mr Werner Blockmans or Mr Patrice Pillet.

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1. INTRODUCTION

In October 2003 the Commission presented a communication reviewing the VAT strategy it launched in June 2000 and setting out the new initiatives it proposed to take in the future under that strategy.¹

The new communication identifies simplification of tax obligations as one of the key areas for future work.

Simplification will be achieved through greater use of electronic means of communication between traders and the tax authorities and between national tax authorities.

It should be noted that, under the special e-commerce system, the Council has already accepted the principle of a single place of identification, submission of returns and payment of VAT for all services supplied electronically by a trader who is not established in the EU to non-taxable persons established in the EU (one-stop system).

The new communication argues that greater use of the one-stop system is therefore crucial to the simplification of obligations for Community businesses.

Under current rules the place of taxation of a taxable transaction actually determines the Member State in which the tax obligations relating to returns and payment of VAT for this transaction are to be discharged.

In the case of B2C transactions it is the taxable person supplying the goods or service who is required to discharge these obligations. In the case of B2B supplies, the taxable person carrying out the transaction may be released from some of these obligations if he is not established in the Member State of taxation and this Member State exercises the option provided for in Article 21 to designate the recipient of the supply of goods or services as the person liable for payment of the VAT.

A taxable person operating in more than one Member State may therefore be faced with a whole raft of obligations to be discharged in several Member States. As Member States have considerable discretion in defining VAT obligations, the content of the returns and their periodicity may differ widely from one Member State to another.

It appears from surveys undertaken by the Commission that 26% of traders consider the VAT system and VAT obligations an obstacle to the internal market.² Some 10% of traders consider that VAT is the area where obligations involve the greatest costs for business.³ Overall, businesses rank VAT legislation fourth (after employment, product conformity and environmental legislation) in terms of compliance costs. The Commission believes that the use of a one-stop system could in many cases simplify tax obligations for Community traders carrying out cross-border business.

¹ COM(2003) 614 final, see:
http://europa.eu.int/comm/taxation_customs/publications/official_doc/com/com.htm

² Survey carried out in November 2000.

³ Survey carried out in September 2001.

The introduction of such a system would therefore facilitate life for traders with declaration and payment obligations in Member States where they are not established.

The PriceWaterhouseCoopers study on VAT obligations⁴ has already come to that conclusion and the feedback from last year's public consultation exercise on the subject confirms that this option is supported by traders.

The purpose of this paper therefore is to present the various aspects of the one-stop system and gather comments from interested parties with a view to a legislative proposal in the autumn.

2. POTENTIAL SCOPE OF THE ONE-STOP SYSTEM

The Commission believes that the one-stop concept should primarily concern taxable persons carrying out taxable activities in a Member State where they are not established.

This paper will therefore deal solely with that type of transaction (distance selling, supplies involving installation or assembly, work on immovable property, sales at exhibitions and fairs, markets and removals, sales on board aircraft, etc.).

The one-stop system should be restricted to B2C transactions. B2B transactions could in fact be systematically subject to the reverse charge procedure which appears to be the simplest for B2B transactions carried out by non established taxable persons.

It should also be noted that the one-stop system is ideally suited to encompass the special transitional arrangements introduced for third country traders making "virtual" supplies in Europe.

But a one-stop system on these lines should be available to all non-EU businesses (even those not engaged in "e-commerce") under agreed joint arrangements. The Commission believes that these arrangements should be as simple as possible, like the special e-commerce system.

3. USING THE SYSTEM AND IDENTIFICATION

3.1. Using the system

The first service which such a system should provide is to enable traders to register for VAT in their own Member State even where they are liable for VAT in several Member States.

In practical terms this means that a trader in Member State A might be identified for VAT in his own Member State (i.e. where he is established) for both taxable transactions effected in A and for taxable transactions effected in other Member States from the place of establishment in Member State A.

⁴ The study is available on the DG Taxation and Customs Union website at the following address: http://europa.eu.int/comm/taxation_customs/taxation/consultations/obligations_tva_fr.htm

If such a system is not to create a disproportionate administrative burden for the authorities and, based on the model adopted in the e-commerce Directive, such a system is only conceivable under a wholly electronic obligation system.

The most pragmatic solution would be to adopt the solution chosen under the e-commerce Directive, i.e. electronic identification under an optional system. Such a system would allow traders wishing to do so to continue to deal directly with up to 25 different tax authorities.

3.2. VAT identification

In practical terms such a system would allow traders to be identified for VAT purposes solely at the place where they are established.

Since businesses will very often already be identified (for its “national” transactions) and will therefore have a VAT number in its own Member State, there does not seem to be any reason to replace national numbers by an “EU.....” number (following the “e-commerce” model). A business will usually continue to be liable for VAT in its own Member State.

The best solution therefore is for the taxable person to be identified in the one-stop system by his national VAT number only. He would thus have only one VAT number to mention on invoices and returns, i.e. the one assigned by his own Member State. This should not cause any problems for the right to deduct as it will be limited purely to B2C transactions.

3.3. Practical modalities

In practice taxable persons could be identified/registered under the one-stop system in the following ways:

- An electronic request for identification would be sent by the taxable person to his authorities. This should contain a minimum of information common to all Member States (details of taxable person, sector of activity, national VAT number and any foreign VAT numbers already assigned).
- The authorities of the Member State of establishment would then examine this request, carry out prior inspection if necessary and then accept or refuse it.
- If the request is accepted, an electronic acceptance message will be sent to the taxable person and all information contained in the request form would be automatically transmitted electronically to all Member States.
- All Member States could then check whether this taxable person was already identified for VAT purposes as not being established in the Member State before removing VAT numbers which would thus become obsolete.

Each Member State would also have continuous access to a comprehensive and up-to-date database of all taxable persons in the one-stop system.

4. VAT RETURN AND THE RIGHT OF DEDUCTION

4.1. The declaration

Once a business has been registered, it would use the one-stop system to send its VAT returns electronically.

A “multi-country” return form with harmonised content should be developed and made available on each national administration’s website.

The return could contain:

- general information relating to the taxable person;
- the actual return of taxable transactions.

The electronic return could consist of certain “electronic pages” (one page for each Member State) and the taxable person in question would complete the relevant pages. The level of detail in relation to VAT rates would have to be defined by each Member State of consumption. Each page could automatically display the VAT rates applying in the Member State in question.

Each Member State of identification would decide whether or not to include a “national” page (the taxable person’s domestic obligations). This would leave it up to each Member State to use a system of different “domestic” obligations (different periods, forms, dates of payment, etc.) so that the introduction of the one-stop system would not necessarily entail a wholesale harmonisation of domestic obligations.

The following example shows what the part of the periodic return for transactions taxable in Belgium might look like on the website of a Member State other than Belgium.

BELGIUM

	Amount of transactions on which VAT is payable	Applicable rate	VAT
1		0% or exempt	
2		6%	
3		12%	
4		21%	
5	Total VAT payable (1+2+3+4)		
6	VAT deductible		
7	Balance (8 or 9 to be completed)	8	VAT to be paid (if 5-6 = positive)
		9	VAT to be recovered (if 5-6 = negative)
10	Credit from preceding period		
11	Final result: Amount to be paid (if 8-10 = positive)		
12	Final result: Amount to be recovered (if 8-10 = negative or 9+10)		
13	Requests for repayment of the amount to be recovered in box 12		

The Commission also suggests that a standard reporting period of three months apply to all companies under this special scheme and taxable persons should be required to send their returns no later than one month after the relevant date.

Finally, such a system would not necessitate harmonisation of national returns (as suggested in the PriceWaterhouseCoopers study) since businesses covered by the special scheme could be subject to separate obligations.

4.2. The right to deduct

The one-stop system is designed for taxable persons carrying out taxable activities on which VAT is payable in more than one Member State. At present such taxable persons exercise their right of deduction by entering the relevant amounts in the regular returns they are required to lodge in Member States.

Under the one-stop system, taxable persons would be able to exercise the right to deduct VAT in their electronic returns (submitted via the system) but according to the rules of the Member State of purchase.

In the above example, a taxable person established in France carrying out taxable transactions in Belgium which he declares under the one-stop system would enter in box 6 the amount of VAT deductible in Belgium under current Belgian rules.

This approach is comparable to the present situation. At the moment, a non-established taxable person exercises his right to deduct in the return he lodges in the Member State where he has no physical presence. The Member State where the deduction is made, and not the Member State of establishment, checks that such deductions are justified.

The introduction of the one-stop system would not alter this principle in any way. The fact that the return would no longer be lodged directly in the Member State of deduction but that this information would be sent via the website of the Member State of establishment should in no way affect its supervisory powers.

4.3. The future Eighth Directive

Pending adoption of the Commission proposal on the Eighth Directive and despite the fact that the taxable persons it covers are usually taxable persons who would not be “customers” of the one-stop system, the same principles could be used to replace the paper procedure by an electronic one.

In this case requests under the Eighth Directive could be sent electronically by the non-established taxable person to the authorities in the Member State of identification and then to the Member State of deduction.

The rules governing the right of deduction would therefore be unchanged and the law of the Member State of consumption would be the only law which was applicable.

Special forms with a standardised content would have to be drawn up and could be included on the national sites of the one-stop system. The obligation to systematically transmit all invoices should also be reviewed as it is incompatible with a system based on electronic transmission.

5. PAYMENT AND REPAYMENT

On the question of payment, there is again no need to harmonise dates of payment in different Member States.

On the contrary, companies covered by special schemes under the one-stop system would have to pay their VAT on a harmonised date. The Commission suggests that payment be made at the same time as the return is lodged.

The suggestion is that the taxable person makes the payment directly to the national account of each Member State of consumption in the currency of that country.

It would, however, be possible and desirable for tax administrations in each Member State of establishment to negotiate agreements with their national banks to enable their taxable persons to make only one payment. This could be generated by the national Internet site of the one-stop system and contain information required for allocation of the amounts between Member States.

In exceptional cases the return would generate a credit and not a payment but these are very rare instances because, if they are not established in their country of consumption, the taxable person's expenditure will generate a right of deduction only in a very few cases.

In such cases, a system of carryover or repayment would have to be introduced. It is proposed that repayment should be authorised only after two consecutive periods in which VAT is credited.

6. PROVIDING INFORMATION TO TAXABLE PERSONS

Although the one-stop system would replace 25 different rules on identification, returns and payment of VAT, it does not standardise taxation rules themselves.

Under the one-stop system there would continue to be 25 different systems of rates and exemptions.

The introduction of such a system would therefore have to be accompanied by an efficient system of informing taxable persons about the rules applying in each Member State.

A number of information documents already exist on DG TAXUD's site (Vademecum on VAT in the European Community, rates of VAT in the European Community) but they are not really suitable for the one-stop system.

These documents will have to be used to introduce on each national site information pages on VAT exemption and rates in each Member State so that all taxable persons have access to the information in their own language. These information pages would also have to contain a detailed description of the common operating rules (and, if necessary, those specific to each Member State) for the one-stop system (identification, returns, payment, control, etc).

7. CHECKING RETURNS, CONTROL AND RECOVERY

7.1. Checking and control

Firstly, it should be noted that returns would be transmitted immediately and automatically to the Member State of consumption concerned without being checked by the Member State of identification.

On the basis of returns received by each Member State, an initial check would be undertaken by the Member State of consumption according to its own procedures.

If there were any questions, the Member State of consumption would be responsible for directly contacting the taxable person (as is the case at present). Only the legislation of the Member State of consumption would apply in relation to any matter relating to fines, interest for late returns or payment and appeals.

If necessary, checks could also be carried out in the following manner:

(1) Each Member State could, as it does today, request its non-established taxable person to provide accounting records which are usually kept outside its territory.

(2) If it proves difficult to obtain such information or records, each Member State could, as it does today, use the VAT mutual assistance arrangements to request information, for control, notification, etc.

This will not in any way reduce each Member State's control capabilities.

On the contrary it would make controls easier because general information on taxable persons' situation would become available, reducing the opportunities for companies to avoid taxation.

Voluntary compliance with obligations would be considerably facilitated as companies would be able to discharge all their obligations through one national administration and in their own language.

7.2. Coordinated control procedures

Even if the general principles relating to national responsibilities for control were to remain the same under a one-stop system, it would be appropriate to improve these procedures by giving priority where possible to joint controls.

It would be useful for example to provide for systematic notification of all Member States when a national inspection is carried out by the authorities of the Member State of identification. This would enable Member States of consumption, if they so wish, to be involved in the inspection, which they could use to check the overall situation of the taxpayer concerned.

All the necessary rules relating to mutual assistance already exist in Regulation 2003/1798. Only this special notification requirement would need to be included in it.

7.3. Recovery

As regards the question of recovery, each tax authority would continue to be responsible for recovering the tax owing to it.

Only if it proved difficult to recover tax would Member States make use of the assistance arrangements under the "recovery" Directive, as they do today.

The one-stop system would raise fewer questions regarding security than the e-commerce system, as it would cover known established companies which are already registered for VAT.