EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Sénat for its Reasoned Opinion concerning the proposal on the standard VAT return {COM (2013) 721 final}.

In the EU, more than 150 million VAT declarations are submitted each year, out of which almost 130 million come from micro-enterprises. The content and format of VAT returns are complex as a result of Member States requiring different information, information not having common definitions, insufficient guidance on how to complete the VAT return, different rules and procedures for the submission, and the need to complete it in the official languages.

The proposal standardises VAT reporting obligations in order to facilitate VAT compliance in cross-border situations and reduce the administrative burden resulting from VAT obligations.

Regarding the principle of subsidiarity, as laid down in Article 5 of the TEU, the Commission would like to refer to the analysis contained in the Impact Assessment {SWD(2013) 427 final} which has been prepared by it in order to present the proposal.

As mentioned in this Impact Assessment, the VAT Directive only sets general EU common rules as regards VAT returns. As a consequence VAT returns are very different throughout the EU (from 6 boxes in Ireland to almost 600 boxes in Italy).

During the public consultation on the Green paper on the future of VAT, EU business considered the current system with various different VAT returns throughout the EU as a major obstacle to intra-EU trade and expressed an urgent need for a common VAT return form. The Impact Assessment confirmed the importance of this issue and indicated that currently 12 % of businesses submit VAT declarations in other EU Member States and this number is constantly increasing.

In the context of the public consultation on the TOP10 most burdensome legislative acts for SMEs (an on-line questionnaire launched by the Commission as part of policy actions with the objective to minimise the regulatory burden for SMEs and adapt EU regulation to the needs of micro-enterprises {COM(2011)803 final}), VAT obligations (especially VAT reporting) were considered by business as the most burdensome legislation.

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The Impact Assessment also indicated that the costs of the current VAT return system amounts to EUR 30 billion whereas the standardisation of the VAT reporting obligations could potentially cut those costs by half – up to EUR 15 billion.

The Impact Assessment and the consultations therefore clearly indicate that the national VAT regulations on the VAT obligations create major obstacles for cross border trade. It is clear that those obstacles cannot be removed by national measures and that harmonisation at the EU level is required.

It is however not possible to achieve a single VAT return form due to difference in VAT regulations (such as VAT rates, payment deadlines which are closely related with the national budgetary policies). This is why the option chosen in the Commission's proposal provides room for different requirements in the different Member States, in line with the principle of subsidiarity.

The Sénat fears that after the introduction of the standard VAT return the national legislator would no longer be able to collect information needed for control purposes in the standard VAT return.

This fear is in the Commission's view unfounded. The 26 boxes proposed by the Commission fully cover all the possible arrangements allowed by the VAT Directive; moreover, in Article 251(3) of the proposal the Commission envisages a specific box for the special arrangements or schemes outside the regular VAT arrangements. In addition to that, tax authorities would have a right to require specific additional information from certain taxpayers as part of risk management exercises.

On the impact of the proposal on fraud, the Impact Assessment showed that the VAT gap was higher in Member States with a high number of boxes in the VAT return. The Commission therefore concludes that a high number of boxes in the VAT return does not help fighting VAT fraud or increasing tax compliance. This is so because modern and efficient tax administrations should use other sources of information (databases from other administrations and registration information, which are often more reliable than VAT returns).

In addition, the standardised boxes would help tax administrations better monitoring cross border activities of taxable persons and comparing VAT returns submitted in different Member States. The Commission is therefore convinced that the standard VAT return would serve the purpose of fighting against fraud.

The Sénat notes that the proposal restricts the options of Member States to set their own payment deadlines and the right to request interim payments and commented that the deadlines for the submission of the VAT return are significantly shorter than the ones currently used in France. The proposal sets standardised deadlines for the VAT payment and for the submission of the standard VAT return in order to simplify obligations for businesses, notably in a cross border context. Otherwise, in case businesses would have to deal with 28 different deadlines, the purposes of the standard VAT return would be largely undermined. The Commission however takes good note of the remark from the Sénat.

The Sénat fears that the proposal would not allow for an annual VAT return period for small businesses. The proposal would however allow Member States to set any VAT return period between one calendar month and one year. Under the proposal, Member States would be *allowed a three calendar months period (or any longer period up to one year) for taxable persons whose annual turnover is no higher than EUR 2 000 000.*

The Sénat expresses doubts on whether the proposal is not likely to jeopardise the existing electronic submission methods based on the EDIFACT standard as a universal standard of data transfer. The proposal requires that standard VAT returns submitted by electronic means shall be accepted by Member States when the authenticity of the origin and the integrity of their content are ensured by an advanced electronic signature or by any other methods offering a similar level of security. This could for example be the case of EDIFACT, which is a very secure transmission method.

The Sénat notes that VAT returns shall remain different in all Member States due to the optional boxes. The Commission has opted for a standard VAT return with built-in flexibility for Member States, precisely because the VAT directive provides for different options for Member States, national VAT rules are different and a single VAT return without any option for Member States is hardly achievable. The Impact Assessment however showed that this proposal (standardisation without a full harmonisation) would lead to almost the same savings as a full harmonisation.

The standard optional boxes would indeed allow businesses to rely on the common rules in all Member States and would allow Member States to use the data that is necessary for a specific country situation to combat fraud and conduct risk analysis.

By providing Member States options required for their national situation the proposal would provide Member States with the tools to achieve their national goals and is therefore fully in line with the principle of proportionality.

The Commission hopes that these clarifications address the concerns raised by the Sénat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

Maroš Šefčovič
Vice-President