



EUROPEAN COMMISSION

*Brussels, 12.04.2017
C(2017) 2376 final*

Dear President,

The Commission would like to thank the Bundesrat for its Opinions on the Commission proposals to amend Directives 2006/112/EC and 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods {COM(2016) 757 final} and to amend Regulation (EU) 904/2010 on administrative cooperation and combating fraud in the field of value added tax {COM(2016) 755 final}.

These proposals represent an important step in delivering on the commitments made by the Commission in the Digital Single Market Strategy and the Action Plan on VAT. The proposals to modernise the value added tax regime for cross-border e-commerce will bring important benefits for both Member States in terms of increases in tax revenues and for business through a reduction in administrative burdens when trading cross-border. In addition, these proposals can help protect jobs in the European Union by providing businesses with a level playing field as in many cases they cannot compete with non-European Union sellers who can import value added tax free into the European Union.

The Commission takes note of the broad support of the Bundesrat for the proposals but also of its doubts relating to, in particular, the extension of the destination principle, the control of taxable persons including home country rules for record keeping, and the availability of statistical information to the Commission.

The Action Plan on VAT {COM(2016) 148 final} adopted by the Commission on 7 April 2016 and supported by the Council already sets out the future application of the destination principle for value added tax. The European Parliament and the Council agreed that the definitive system should be based on the principle of taxation in the Member State of the destination of the goods. The application of the destination principle, which has already been largely achieved, should help reduce cross-border value added tax fraud by EUR 40 billion per year and avoid distortion of competition.

*Ms Malu DREYER
President of the Bundesrat
Leipziger Straße 3 - 4
D – 10117 BERLIN*

In terms of record keeping, the obligation of having to comply with requirements of different Member States, to which supplies are made, is very burdensome for business. Hence, the rules concerning record keeping are suggested to be those applicable in the Member State of identification of the supplier. This simplification for business should lead to increased compliance and therefore an increase in value added tax revenues.

In terms of the proposal for the coordination of administrative enquiries and auditing of businesses, the Commission considers that it is far more efficient and effective, if audits are done by the Member State of identification. It is expected that the Member State of identification will take a more proactive approach to controlling business using the One Stop Shop and indeed Member States can build controls of such businesses into their risk systems. However, there remains the possibility for a Member State of consumption to make enquiries directly to the company if the Member State of identification does not act. In this regard, it is worth recalling that the Action Plan on VAT already stresses the need for closer administrative cooperation between tax administrations (exchange, share and analyse key information and launch joint audits). Businesses welcome this idea, because they could otherwise face a scenario of receiving separate audit requests from each Member State. The enhanced cooperation removes uncertainty for businesses, ensures high compliance rates and represents an efficient means of using audit resources. It is noteworthy that a large majority of Member States have already agreed to coordinate audits for the purposes of the current Mini-One Stop Shop for telecommunications, broadcasting and electronic services.

By introducing an automatic access to general information related to the special schemes stored in the Member States' electronic systems, the Commission does not intend to get access to taxpayer data, but to simplify the collection of statistical data which is also required under Better Regulation rules needed for evaluation purposes (for example on the number of taxable persons registered in a special scheme or the total revenue accounted for through the One Stop Shop) without having to question Member States. This approach will be less burdensome on tax administrations.

The Commission will bear in mind your views in its contribution to the ongoing legislative process involving both the European Parliament and the Council, where your government is represented.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Pierre Moscovici
Member of the Commission*