

10.2.17

**Resolution  
of the Bundesrat****Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold****COM(2016) 811 final; Council document 15817/16**

At its 953rd session, on 10 February 2017, the Bundesrat adopted the following position pursuant to Sections 3 and 5 of the Act on Cooperation between the Federation and the Länder in European Union Affairs (EUZBLG):

1. The Bundesrat welcomes the Commission's initiative for the introduction of a generalised reverse charge mechanism. Such a mechanism can help not only to combat VAT fraud (and in particular 'carousel' fraud), but also to prevent the loss of tax revenue in cases in which traders in the transaction chain are no longer able to pay the tax but their deduction of input tax can no longer be reversed.
2. The uses of the reverse charge mechanism already permitted, which are confined to isolated categories of supply and sectors, are not sufficient to combat VAT fraud. Perpetrators can evade its effect by conducting their carousel transactions in respect of other categories of supply and sectors. The current system also gives rise to legal uncertainties and enforcement problems because of difficulties in distinguishing between cases covered by the special mechanism and those that are not. A generalised reverse charge mechanism would be free of these disadvantages.
3. The proposed measure could therefore substantially expand the Member States' possibilities of combating VAT fraud without obliging less affected Member States to participate in the generalised mechanism. This means that only the tax authorities of those Member States that opt to participate would have to shoulder the administrative burden associated with the shift in tax liability. At the same time, valuable lessons for the development of a final VAT system can be learned from the experience of the Member States that do take part.
4. The Bundesrat considers that the proposed level of the threshold and the conditions attached need to be reviewed to ensure that the generalised reverse charge mechanism is viable in practice. The proposed level of the threshold excludes many cases associated with possible fraud from the scope of the mechanism.
5. The Bundesrat would point out that the restrictive conditions mean that the number of Member States that would qualify to introduce the generalised reverse charge mechanism is too limited. The proposed procedure for authorisation of individual Member States by the Commission would almost certainly preclude implementation of the proposal by some Member States. Those who *would* qualify would also have to opt to implement the scheme in a situation in which the Commission reserves the right to revoke authorisation at short notice 'in case of considerable negative impact on the internal market'. This considerable limitation means that the usefulness of implementing the proposal cannot be reliably determined.
6. The Bundesrat calls on the Federal Government to raise the concerns set out above at the forthcoming EU-level negotiations.
7. It is sending this position directly to the Commission.