



EUROPEAN COMMISSION

*Brussels, 5.6.2018
C(2018) 3413 final*

Dear President,

The Commission would like to thank the Senat for its Opinion on the proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax {COM(2017) 706 final}.

The Commission takes note of the positive opinion of the Senat as regards the compliance of the proposal with principles of subsidiarity and proportionality. It welcomes the support of the Senat to the "Value Added Tax Action Plan", which is aimed at strengthening the instruments of administrative cooperation, in particular Eurofisc, as a means of reinforcing trust between tax authorities and limiting cross-border fraud.

The Commission would like to stress that when a request for an administrative enquiry is submitted, coordination between the respective authorities involved will ensure that the requested authority understands fully the expectations of the requesting authority, in particular the information needed. The former can then properly assess whether an administrative enquiry is necessary and if one of the instruments which would allow involving officials of the requesting authority in the administrative enquiry could be used.

The proposal does not envisage granting a general access to data on all imports made in the European Union as well as to data on all exports from the European Union, as it was neither deemed necessary nor requested by the Member States during the consultation process.

The purpose of the provisions concerning the Value Added Tax refund compensation scheme is to avoid the need for recovery assistance requests, insofar as the tax debtor

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would agree to the direct transfer. In this way, it will also reduce the administrative burden for the applicant Member State and avoid all administrative burden and costs for the requested Member State (the Member State of refund). This Member State will not need to know the information on the judicial system and procedures of the Member States of establishment of the taxable person as the information regarding Value Added Tax liabilities (whether they are undisputed or they were disputed by a taxable person) would have to be provided by the requesting Member State.

The proposed modification of Article 13 aims at enabling the competent authorities to exchange information through other means than standard forms when they consider it necessary and agree to do so, so as to give them more flexibility. It will happen in limited and specific cases. The use of standard forms will therefore remain the main way to exchange information without prior request.

As regards the new joint audit instrument, it is worth mentioning that the purpose of the proposal is to provide the Member States with a sound legal basis to carry out such joint audits. The optional character of this instrument means that practical arrangements will be laid down by agreement and within the limits to be defined by each Member State involved. Successful examples exist in some Member States where such joint audits already take place. An overall positive opinion on joint audits was also expressed by stakeholders during the consultation process.

The Commission considers that the concept of Certified Taxable Person and its application conditions, such as granting and assessment, should indeed be harmonised to the extent possible.

Finally, as regards the joint administrative enquiries that must be carried out on request of at least two Member States, it is worth mentioning that the proposal does not impact the situation where only two Member States agree to conduct a joint administrative enquiry. In such case, they will continue to be able to do so by using the instrument provided for in Article 28.

The proposal is in the legislative process involving both the European Parliament and the Council.

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

Yours faithfully,

Frans Timmermans
First Vice-President

Pierre Moscovici
Member of the Commission