

SPANISH PARLIAMENT

REPORT 84/2013 OF 19 DECEMBER 2013 OF THE JOINT COMMITTEE ON THE EUROPEAN UNION, ON THE APPLICATION OF THE PRINCIPLE OF SUBSIDIARITY BY THE PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE 2006/112/EC ON THE COMMON SYSTEM OF VALUE ADDED TAX AS REGARDS A STANDARD VAT DECLARATION [COM (2013) 721 FINAL] [2013/0343 (CNS)] {SWD (2013) 426 FINAL} {SWD (2013) 427 FINAL} {SWD (2013) 428 FINAL}

BACKGROUND

A. The Protocol on the application of the principles of subsidiarity and proportionality, annexed to the Lisbon Treaty of 2007 and in force since 1 December 2009, provides for a procedure by which national parliaments can monitor the compliance of EU legislative proposals with the principle of subsidiarity. The Protocol was transposed into Spanish law by Law 24/2009 of 22 December 2009 amending Law 8/1994 of 19 May 1994. In particular, the new Articles 3(j), 5 and 6 of Law 8/1994 constitute the legal basis for this report.

B. The proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards a standard VAT declaration has been approved by the European Commission and submitted to national parliaments. The parliaments have eight weeks, until 2 January 2014, to examine the proposal's compliance with the principle of subsidiarity.

C. On 19 November 2013 the Bureau and Spokespersons of the Joint Committee on the European Union decided to examine the proposal, appointed Senator María José Martín Gómez as rapporteur and requested from the Government the report referred to in Article 3(j) of Law 8/1994.

D. A report was received from the Government stating that the proposal submitted complies with the principle of subsidiarity. Spain considers that it is essential to maintain the annual summary VAT return, since the tax authorities need this information in order to monitor taxpayers' tax obligations effectively.

E. The matter has been referred to several regional parliaments. They have sent notifications as to whether they have closed the dossier, have not issued an opinion or have taken note of the matter.

F.

At its meeting on 19 December 2013, the Joint Committee on the European Union approved this

REPORT

1. Article 5(1) of the Treaty on European Union states that 'the use of Union competences is governed by the principles of subsidiarity and proportionality'. Article 5(3) of the same Article states that 'Under the principle of subsidiarity the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.'

2. The proposal is based on Article 113 of the Treaty on the Functioning of the European Union, which states as follows:

'The Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition. '

3. The aim of the Proposal for a Council Directive amending **Directive 2006/112/EC on the common system of value added tax as regards a standard vat declaration** is to enable all companies to provide standardised information to the various Member States in a common format, preferably electronic. This would reduce red tape and the related costs for businesses, facilitate tax compliance and make tax administrations across the Union more efficient.

4. **Background to the Proposal:** Directive 2006/112/EC requires companies to fill in periodic declarations providing detailed information on the payment and control of VAT. This is particularly complex if declarations are submitted in different Member States, since the operator is faced with very different rules and procedures for submitting and correcting declarations. This increases the administrative burden on businesses, reduces the accuracy and timeliness of VAT declarations and restricts cross-border trade.

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In December 2011 the European Commission adopted a Communication on the future of VAT. This Communication sets out the fundamental characteristics that must underlie the new VAT regime – notably to make it simpler, more efficient and more robust against fraud, and better tailored to the Single Market.

The idea of a standard VAT declaration has been promoted by the High Level Group on Administrative Burdens. A public consultation confirmed major interest and support from businesses for such an initiative.

The Communication on smart regulation also highlighted the VAT Directive, and VAT declarations in particular, as the second most burdensome piece of EU legislation.

5. The aim of the Proposal is to reduce red tape and the related costs for companies (particularly SMEs), facilitate tax compliance and make tax administrations across the European Union more efficient.

It provides for a uniform set of requirements for businesses when filing their VAT declarations, regardless of the Member State in which they do it. The standard VAT declaration – which will replace national VAT declarations – will ensure that all businesses are asked for the same basic information, within the same deadlines, across the EU. It will also help to improve VAT compliance and increase public revenues. The standard VAT declaration proposed today simplifies the information that businesses will have to provide to tax authorities.

Large companies will be required to file monthly declarations and small companies quarterly declarations. The obligation to submit an annual summary VAT return will be abolished. Spain considers that it is essential to maintain the annual summary VAT return, since the tax authorities need this information in order to monitor taxpayers' obligations effectively.

The declaration will have only five compulsory boxes for taxpayers to fill in. Member States are given leeway to request a number of additional standardised elements, up to a maximum of 26 information boxes. The committee procedure will be used to address certain technical details of the standardised return, common definitions and procedures, the detailed treatment of corrections and the common methods of electronic submission.

Businesses will have the right in all Member States to submit the standard VAT return electronically, including by electronic file transfer, using advanced electronic signatures interoperable throughout the EU or other technologies offering a similar level of security.

6. The Proposal is based on Article 113 of the Treaty on the Functioning of the European Union to the extent that such harmonisation is necessary to ensure the functioning of the internal market and to avoid distortion of competition.

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7. The objectives of the proposal cannot be fully achieved by the Member States. Standardisation of the VAT return obligation can only be achieved through the EU's legislative process by amending the VAT Directive, which sets out the relevant rules for VAT returns.

In accordance with the subsidiarity principle laid down in Article 5 of the Treaty, the scope of the proposal is limited to the objectives that can be achieved only through EU legislation.

8. The amendments to the VAT Directive are necessary to achieve the standardisation of VAT returns and to limit the information requirements to those necessary for the control and collection of VAT so as to reduce burdens on business and remove obstacles to the proper functioning of the internal market. In addition, distortions of competition can be better avoided through the enhanced possibilities of control which a standard form offers to Member States. The proposal therefore complies with the proportionality principle.

CONCLUSION

For the reasons set out above, the Joint Committee on the European Union considers that the proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards a standard VAT declaration complies with the principle of subsidiarity set out in the current Treaty on European Union.