



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

Brussels,
D(2011)

14 JAN. 2011

Opinion

Title

DG TAXUD - Impact Assessment on Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax in respect of the VAT treatment of vouchers

(draft version of 6 December 2010)

(A) Context

The VAT Directive 2006/112/EC does not contain any provisions on the treatment of transactions involving vouchers, which leads to inconsistencies in the VAT treatment of vouchers between Member States. The limited guidance provided by ECJ judgments on vouchers is considered as helpful in dealing with some specific issues, but not sufficient to provide a comprehensive set of rules.

This impact assessment accompanies a proposal to modernise the provisions of the VAT Directive as regards the treatment of vouchers.

(B) Overall assessment

The IA report does not provide sufficient evidence to support EU action in the area of VAT treatment of vouchers and should be improved on a number of important aspects. Firstly, it should better demonstrate the existence of problems at EU level, such as the distortion of the functioning of the internal market, and should substantiate these with available evidence to better justify the need for and value added of EU action. Secondly, it should clarify whether different ways of modifying the VAT Directive as regards the treatment of vouchers exist, and if so, present all feasible sub-options for each of the measures put forward under the legislative option 3. Finally, the IA report should strengthen the analysis of the economic impacts on the different actors in the VAT chain and should more clearly present the different positions expressed by the stakeholders.

Given the nature of the concerns raised above, the IAB requests DG TAXUD to resubmit a revised version of the IA report, on which it will issue a new opinion.

(C) Main recommendations for improvements

(1) Be clearer about the problems at stake and substantiate them with available evidence to justify better the need for and value added of EU action. The existence of the problems at EU level – such as the distortion of the functioning of the internal market or unfair competition issues between vouchers and established payments systems – and their underlying drivers should be demonstrated better. They should be substantiated with available evidence, such as the complaints about unfair competition from market players involved in cross-border transactions with vouchers, complaints from the tax authorities of Member States, or anecdotal examples of double or non-taxation. The IA report should provide indications of the scale of the problem. It should be transparent about the conceptual and practical difficulties encountered in obtaining robust evidence from the business sector and public authorities, and should indicate clearly where, despite best efforts, evidence is lacking. It should also strengthen the baseline scenario by providing greater clarity on the evolution of the treatment of vouchers in Member States.

(2) Clarify whether a wider range of sub-options can be defined for each of the measures envisaged under the legislative option 3. In addition to identifying the appropriate policy instrument (soft law vs. legislative intervention), the IA report should also consider all feasible sub-options for each of the measures put forward under option 3. This would provide greater transparency on the available policy choices when modifying the VAT Directive as regards the treatment of vouchers. For instance, the IA report should clarify whether more possibilities to define the taxable amount for transactions involving vouchers exist. It should then explain on which basis the suggested definition of taxable amount (on p. 24) was selected, and why alternative definitions (if any) were excluded. Similarly, sub-options could be explored for the time of taxation. The IA report should also provide a fuller assessment of the soft law option (e.g. guidelines), by explaining better why it is considered an insufficient solution for the identified problems. The IA report should better reflect the different positions expressed by the stakeholders on the available options, and it should provide greater clarity on how their views have been taken into account.

(3) Strengthen the analysis of economic impacts, for example by explaining better how the options are likely to change the situation of different actors in the VAT chain, including SMEs and telecom companies that take advantage of the existing tax loopholes. The IA report should also explain whether some Member States are likely to be more affected than others if the VAT Directive is modified as suggested in option 3.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

An executive summary should be provided. It should be a separate document of maximum 10 pages, presenting a summary of the main analytical steps of the impact assessment following the format of the IA guidelines.

(E) IAB scrutiny process	
Reference number	2010/TAXUD/005
External expertise used	No
Date of Board Meeting	12 January 2011



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Brussels,
D(2011)

Opinion

Title **DG TAXUD - Impact Assessment on: Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax in respect of the VAT treatment of vouchers**

(Resubmitted draft: version of 29 April 2011)

(A) Context

The VAT Directive 2006/112/EC does not contain any provisions on the treatment of transactions involving vouchers, which leads to inconsistencies in the VAT treatment of vouchers between Member States. The limited guidance provided by ECJ judgments on vouchers is considered as helpful in dealing with some specific issues, but not sufficient to provide a comprehensive set of rules.

This impact assessment accompanies a proposal to modernise the provisions of the VAT Directive as regards the treatment of vouchers.

(B) Overall assessment

While the report has been improved along the lines of some of the recommendations issued by the Board in its first opinion, several aspects should be further strengthened. Firstly, the report should provide greater clarity on the expected evolution of the treatment of vouchers in Member States where no new action is taken at EU level. Secondly, it should be clearer on the concrete modifications of the VAT Directive foreseen under policy option 3. Thirdly, it should still provide a fuller assessment of the soft law option (e.g. guidelines). Finally, the views of different stakeholders should be transparently reported throughout the report.

(C) Main recommendations for improvements

(1) Further strengthen the problem definition. The revised report provides some anecdotal evidence to substantiate the existence of the problems such as the distortion of the functioning of the internal market and unfair competition issues. In addition, the baseline scenario still needs to be strengthened by providing greater clarity on the expected evolution of the treatment of vouchers in Member States where no new action is

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taken at EU level.

(2) Be clearer about the concrete modifications of the VAT Directive. While the revised report states that no range of sub-options for different measures envisaged under policy option 3 can be defined, it should be clearer as to how the existing uncertainties and inconsistencies in the tax treatment of vouchers will be addressed in practice. This could for instance be done by providing details on the new elements that are being considered for the revised VAT Directive. The report should then explain, as suggested in the Board's first opinion, whether some Member States are likely to be more affected than others if the VAT Directive is modified as suggested in option 3.

(3) Provide a fuller assessment of the soft law option (e.g. guidelines). The report should still better explain why the soft law option is considered an insufficient solution for the identified problems.

(4) Report the stakeholders' views. As requested in the Board's first opinion, the views of different stakeholders should be better reflected throughout the report – in particular in the options section; and it should be clarified how their views have been taken into account.

(D) Procedure and presentation

The executive summary should follow the format specified in Annex 4 of the IA guidelines.

(E) IAB scrutiny process

Reference number	2010/TAXUD/005
External expertise used	No
Date of Board Meeting	Written procedure The present opinion concerns a resubmitted draft IA report. The first opinion was issued on 14 January 2011.