









# Procedure file

| Basic information  |                                |                         |
|--|--------------------------------|-------------------------|
| CNS - Consultation procedure Directive   | <a href="#">2018/0164(CNS)</a> | Awaiting final decision |
| Operation of the definitive VAT system for the taxation of trade between Member States |                                |                         |
| Amending Directive 2006/112/EC <a href="#">2004/0079(CNS)</a>                          |                                |                         |
| Subject  |                                |                         |
| 2.70.02 Indirect taxation, VAT, excise duties  |                                |                         |

| Key players                   |   |  |            |
|-------------------------------|---|--|------------|
| European Parliament           | Committee responsible   | Rapporteur   | Appointed  |
|                               |  Economic and Monetary Affairs |  | 20/06/2018 |
|                               |   |  <a href="#">MARTUSCIELLO Fulvio</a> |            |
|                               |   | Shadow rapporteur  |            |
|                               |   |  <a href="#">KOFOD Jeppe</a>         |            |
|                               |   |  <a href="#">ZĪLE Roberts</a>      |            |
|                               |   |  <a href="#">CORNILLET Thierry</a> |            |
|                               |   |  <a href="#">SCOTT CATO Molly</a>  |            |
|                               |   |  <a href="#">KAPPEL Barbara</a>    |            |
| Council of the European Union | Council configuration   | Meeting  | Date       |
|                               | <a href="#">Economic and Financial Affairs ECOFIN</a>   | <a href="#">3626</a>   | 22/06/2018 |
| European Commission           | Commission DG   | Commissioner   |            |
|                               | <a href="#">Taxation and Customs Union</a>  | MOSCOVICI Pierre   |            |

| Key events |  |                               |         |
|------------|--|-------------------------------|---------|
| 25/05/2018 | Legislative proposal published             | <a href="#">COM(2018)0329</a> | Summary |
| 22/06/2018 | Debate in Council                          | <a href="#">3626</a>          |         |
| 10/09/2018 | Committee referral announced in Parliament |                               |         |
| 22/01/2019 | Vote in committee                          |                               |         |
| 25/01/2019 | Committee report tabled for plenary, 1st   | <a href="#">A8-0028/2019</a>  | Summary |

|            |                               |  |         |
|------------|-------------------------------|--|---------|
|            | reading/single reading        |  |         |
| 12/02/2019 | Results of vote in Parliament |  |         |
| 12/02/2019 | Decision by Parliament        | <a href="#">T8-0074/2019</a>   | Summary |

### Technical information

|                            |   |
|----------------------------|---|
| Procedure reference        | 2018/0164(CNS)  |
| Procedure type             | CNS - Consultation procedure                                  |
| Procedure subtype          | Legislation   |
| Legislative instrument     | Directive   |
|                            | Amending Directive 2006/112/EC <a href="#">2004/0079(CNS)</a> |
| Legal basis                | Treaty on the Functioning of the EU TFEU 113                  |
| Other legal basis          | Rules of Procedure EP 159                                     |
| Stage reached in procedure | Awaiting final decision                                       |
| Committee dossier          | ECON/8/13272  |

### Documentation gateway

|   |                               |            |     |         |
|---|-------------------------------|------------|-----|---------|
| Legislative proposal  | <a href="#">COM(2018)0329</a> | 25/05/2018 | EC  | Summary |
| Committee draft report  | <a href="#">PE629.628</a>     | 30/10/2018 | EP  |         |
| Amendments tabled in committee                                  | <a href="#">PE630.755</a>     | 28/11/2018 | EP  |         |
| Economic and Social Committee: opinion, report                  | <a href="#">CES2779/2018</a>  | 23/01/2019 | ESC |         |
| Economic and Social Committee: opinion, report                  | <a href="#">CES3429/2018</a>  | 23/01/2019 | ESC |         |
| Committee report tabled for plenary, 1st reading/single reading | <a href="#">A8-0028/2019</a>  | 25/01/2019 | EP  | Summary |
| Text adopted by Parliament, 1st reading/single reading          | <a href="#">T8-0074/2019</a>  | 12/02/2019 | EP  | Summary |
| Commission response to text adopted in plenary                  | <a href="#">SP(2019)354</a>   | 16/04/2019 | EC  |         |

### Additional information

|                   |                          |
|-------------------|--------------------------|
| Research document | <a href="#">Briefing</a> |
|-------------------|--------------------------|

## Operation of the definitive VAT system for the taxation of trade between Member States

**PURPOSE:** to implement the definitive VAT system to improve the operation of VAT arrangements for cross-border B2B trade on goods within the Union.

**PROPOSED ACT:** Council Directive.

**ROLE OF THE EUROPEAN PARLIAMENT:** the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

**BACKGROUND:** the creation of a simple, modern and fraud-proof VAT system is one of the fiscal priorities set out by the Commission. In its 2016 [VAT action plan](#), the Commission announced its intention to propose a definitive VAT system for the EU.

This proposal is part of a package of measures aimed at radically changing VAT rules by ending 25 years of a 'transitional' VAT system in the single market. This arrangement, as far as Business-to-Business (B2B) transactions on goods are concerned, split the cross-border movement of goods into two different transactions: an exempt supply in the Member State of departure of the goods and an intra-Community acquisition taxed in the Member State of destination

The proposal presented by the Commission puts an end to this artificial split of a single commercial transaction.

Besides the change to the definitive VAT system for cross-border trade, this move includes two other proposals to modify [Directive 2006/112/EC](#) (VAT Directive): one as regards [VAT rates](#) and one as regards the special scheme for [small enterprises](#). In addition, it includes a [proposal](#) for a Council Regulation on combating fraud in the field of VAT.

As regards the change towards a definitive VAT system based on the principle of taxation in the Member State of destination a gradual two-step approach was announced: a first step settling intra-Union B2B supplies of goods and a second step covering supplies of services.

The first step was further divided into two sub-steps. The first sub-step, presented simultaneously with the Communication, was a legislative [proposal](#) which outlined the cornerstones for a simpler and fraud-proof definitive VAT system for intra-Union trade.

The current proposal represents the second sub-step. It contains the detailed arrangements to put these cornerstones in place for intra-Union B2B supplies of goods.

**IMPACT ASSESSMENT:** a back to back impact assessment and evaluation was carried out which covered both the setting of the cornerstones of the definitive VAT system and the detailed arrangements for putting these cornerstones into place. The preferred option would reduce cross-border VAT fraud by up to EUR 41 billion per annum and reduce compliance costs for businesses by EUR 938 million per annum.

The Regulatory Scrutiny Board gave a positive opinion to the impact assessment with some recommendations, in particular on the link of the proposal to other elements of the VAT Action Plan, the need for a staged approach and the concept of certified taxable person, that have been taken on board.

**CONTENT:** this proposal amends the VAT Directive as regards the introduction of detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States. It is intended to replace the transitional arrangements applicable since 1 January 1993 by a definitive VAT system for intra-Union B2B trade under which domestic and cross-border transactions involving goods will be treated in the same way.

The main elements of the proposal are as follows:

**Simplifying how goods are taxed:** in the current VAT system, trade in goods between businesses is split into two transactions: a VAT-exempt sale in the Member State of origin and a taxed acquisition in the Member State of destination.

It is proposed that cross-border B2B supplies of goods within the Union should be combined into a single type of transaction for VAT purposes: an intra-Union supply of goods. A definition of the concept of intra-Union supply of goods is integrated.

**Place of supply rules:** the combination of the definition of intra-Union supplies of goods and the new proposed place of supply rule ensures the taxation of cross-border B2B supply of goods in the Union in the Member State of destination.

**Chargeability of the tax:** an amendment is proposed that determines a single rule for the chargeability of VAT on intra-Union supplies. According to this rule VAT shall become chargeable on issue of the invoice, or on expiry of the time limit if no invoice has been issued by that time (fifteenth day of the month following that in which the chargeable event occurs).

**Person liable for payment of VAT:** the principle remains that VAT shall be payable by any taxable person carrying out a taxable supply of goods or services, unless in other provisions, it is stipulated that VAT is payable by another person.

As an exception, a new Article is proposed according to which VAT shall be payable by the person to whom the goods are supplied insofar he is a certified taxable person if the goods are supplied by a taxable person not established within the territory of the Member State in which the VAT is due.

As regards intra-Union supplies of goods, the supplier shall, in principle, be liable for the payment of the VAT in the Member State of arrival of the goods except where the supplier is not established in the Member State of taxation and the customer is a certified taxable person. In the latter case, the customer will pay the VAT due by way of reverse charge in the Member State of arrival of the goods.

**Identification:** an amendment is proposed according to which Member States shall take the measures necessary to ensure that a non-taxable legal person who is the recipient of an intra-Union supply is identified by means of an individual number.

**Reduced administrative formalities:** the changes reboot the self-policing character of VAT and will reduce the amount of administrative steps that need to be taken by businesses when they sell to other companies in other Member States

Intra-Union supplies of goods should under the proposed system no longer be included in the recapitulative statements. The principle of VAT being charged by the supplier on the intra-Union supply re-installs the self-policing character of VAT. Consequently, ensuring an administrative follow-up to the physical flow of goods through the recapitulative statement within the Union is no longer justified.

**Single online portal:** in order to make the change to VAT rules as seamless as possible for businesses, the proposed amendments would introduce the necessary provisions to put in place an online portal or 'One Stop Shop' for all business-to-business (B2B) EU traders to sort out their VAT. This system will also be available to companies outside the EU who want to sell to other businesses within the Union and who would otherwise have to register for VAT in every Member State. Once in force, these businesses will simply have to appoint one intermediary in the EU to take care of VAT for them.

## Operation of the definitive VAT system for the taxation of trade between Member States

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The Committee on Economic and Monetary Affairs adopted, following a special legislative procedure (consultation of Parliament), the report by Fulvio MARTUSCIELLO (EPP, IT) on the proposal for a Council directive amending Directive 2006/112/EC as regards the introduction of the detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States.

The committee recommended that the European Parliament approve the Commission's proposal subject to the following amendments:

Taxation in the country of destination

Members stressed that the creation of a single Union VAT area is crucial in order to decrease compliance costs for businesses, particularly

SMEs working cross-border, to reduce the risks of cross-border VAT fraud and to simplify VAT-related procedures.

The principle of taxation at origin as envisaged for the definitive VAT system should be replaced by the principle of taxation in the Member State of destination. That change should contribute to the reduction of VAT-related cross-border frauds by an estimated EUR 50 billion annually.

#### Certified taxable persons

Members proposed strict criteria, applied in a harmonised way by all Member States, need to be put in place to determine which enterprises can benefit from the status of the certified taxable person, and common rules and provisions resulting in fines and penalties for those who do not comply with them should be established.

In order to ensure a harmonised interpretation in the granting of the certified taxable person status, the Commission shall adopt by means of an implementing act further guidance for Member States regarding the evaluation of those criteria, which shall be valid across the Union.

In addition, in order to encourage applications for the certified taxable person status, the Commission shall introduce a tailored procedure for Small and Medium Enterprises.

Where the status of certified taxable person is granted, that information shall be made available via the VAT Information Exchange System. Where the application is refused, the decision as well as the grounds for refusal shall be notified to tax authorities of other Member States.

Tax authorities of Member States having granted the status of certified taxable person shall review that decision, at least every two years, to ensure that the conditions are still met. If the taxable person has not informed the tax authorities of any factor possibly affecting the certified taxable person status as laid out in the implementing act or has purposefully concealed it, it shall be subject to proportionate, efficient and dissuasive sanctions, including the loss of the certified taxable person status.

#### Information portal

By 1 June 2020, the Commission, in cooperation with the Member States, shall establish a comprehensive, multilingual and publicly accessible Union VAT Web Information Portal on which businesses and consumers can quickly and effectively obtain accurate information on VAT rates including which goods or services benefit from reduced rates or exemptions and all relevant information on the implementation of the definitive VAT system in the different Member States.

In complement to the Portal, an automated notification mechanism shall be set up. That mechanism shall ensure automatic notifications to tax payers on changes and updates to the VAT rates of Member States. Such automatic notifications shall be activated before the change becomes applicable and at the latest five days after the decision has been taken.

Members stressed that Member States' tax administrations must cooperate closely in a spirit of mutual trust and exchange relevant information in order to carry out their tasks.

## Operation of the definitive VAT system for the taxation of trade between Member States

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The European Parliament adopted by 493 votes to 48, with 137 abstentions, following a special legislative procedure (consultation), a legislative resolution on the proposal for a Council directive amending Directive 2006/112/EC as regards the introduction of the detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States.

The European Parliament approved the Commission's proposal subject to the following amendments:

#### Definitive VAT system for the taxation of trade between Member States

Parliament stressed the urgent and far-reaching need to reform the VAT system in order to achieve a definitive VAT system that facilitates and simplifies intra-EU cross-border trade and to make the system more fraud-proof. The creation of a single Union VAT area is crucial in order to decrease compliance costs for businesses, particularly SMEs working cross-border, to reduce the risks of cross-border VAT fraud and to simplify VAT-related procedures.

The current initiative is based on the Member States preferred approach of taxation at destination, with a view to allowing Member States a certain flexibility in the setting of VAT rates.

Those new principles will enable the Member States to better fight VAT fraud, especially Missing Trader Intra-Community (MTIC), estimated to amount to at least EUR 50 billion a year.

#### Certified taxable persons

Members proposed strict criteria, applied in a harmonised way by all Member States, need to be put in place to determine which enterprises can benefit from the status of the certified taxable person, and common rules and provisions resulting in fines and penalties for those who do not comply with them should be established.

These criteria shall include the absence of any serious criminal offence related to the applicant's economic activity, such as, in particular: (i) money laundering; (ii) tax evasion and tax fraud; (iii) misuse of EU funds and programmes; (iv) bankruptcy or insolvency fraud; (v) bribery and/or corruption; (vi) cybercrime; (vii) participation in a criminal organisation or terrorist activities.

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