

Common system of value added tax (VAT): temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

2016/0406(CNS) - 21/12/2016 - Legislative proposal

PURPOSE: to amend 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.

PROPOSED ACT: Council Decision.

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 robust single European VAT area is one of the key actions announced by the Commission in its [VAT action plan](#). It will require the setting up of the definitive VAT system for intra-EU business-to-business (B2B) cross-border trade in order to replace the current system which was intended to be transitional.

The European Parliament and the Council agreed that this definitive VAT system will be based on the principle of taxation in the country of destination of the goods (the so-called destination principle) whereas the current system is based on exemption of supplies of goods in the Member State of departure.

Given the current level of VAT fraud and the fact that not all Member States are equally affected by this fraud, and given the fact that it will take several years for the definitive VAT regime to be implemented, some urgent and specific measures may be necessary.

In this context, certain Member States have asked to be allowed to implement a temporary generalised reverse charge mechanism (GRCM) with a certain threshold per invoice which would derogate from one of the general principles of the current VAT system, as regards the fractionated payment system, in order to address endemic carousel fraud.

IMPACT ASSESSMENT: the impact assessment identified, as preferred option, a derogation to apply the GRCM by certain Member States fulfilling pre-defined criteria, on a voluntary basis and to all goods and services with an invoice threshold of more than EUR 10 000.

CONTENT: this proposal to amend [Directive 2006/112/EC](#) (VAT Directive) seeks to authorise Member States to derogate from the common system of value added tax so as to apply a generalised reverse charge mechanism (GRCM) to domestic supplies with an invoice threshold of more than EUR 10 000 and to preserve the Internal Market.

The granting of the GRCM is subject to pre-defined criteria aiming to limit the scope of the measure to Member States which are particularly affected by carousel fraud.

In this context:

- a VAT gap excess of 5 percentage points above the EU median;
- a carousel fraud level within a Member States' total VAT gap of more than 25%;
- other control measures are not sufficient to combat carousel fraud on its territory.

Moreover, a Member State having a common border with a Member State that applies the GRCM, should also be authorised to apply the GRCM under certain conditions.

A safeguard clause provides that the Commission should be empowered to repeal, without retroactive effect, derogations in case the impact on the internal market would be negative.

This Directive shall apply until 30 September 2022.