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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	VAT in the Digital Age package - Policy debate

In order to guide the policy debate which will take place during the Council (Economic and Financial Affairs) on 16 June 2023, the Presidency has prepared a note with questions as set out in the Annex below.

The Committee of Permanent Representatives is invited to take note of the Presidency's note and questions, and to forward them to the Council for the abovementioned policy debate.

The Council (Economic and Financial Affairs) is invited to hold a policy debate based on the questions prepared by the Presidency.

ANNEX

VAT IN THE DIGITAL AGE

Presidency Note

I. INTRODUCTION

1. On 8 December 2022, the Commission submitted a package entitled 'VAT in the Digital Age', containing three proposals:

   - a proposal for a Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age (the amending Directive)[1];
   - a proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age (the amending Regulation)[2]; and
   - a proposal for a Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes (the amending Implementing Regulation)[3].

2. The three proposals have the following objectives:

   (a) they set out to modernise the reporting obligations for VAT purposes by standardising the information that needs to be submitted by taxable persons on each transaction and by imposing the use of e-invoicing for cross-border transactions, which would contribute to the fight against tax fraud (digital reporting requirements);

   (b) they seek to address the challenges of the platform economy by enhancing the role of platforms in the collection of VAT when they facilitate the supply of short-term accommodation rental or passenger transport services (platform economy); and

[1] Doc. 15841/22.
[2] Doc. 15842/22.
[3] Doc. 15843/22.

(c) they support the aim of reducing the need to register for VAT purposes in multiple EU Member States, by improving the functioning of and expanding the existing one-stop shop systems and reverse charge mechanisms (single VAT registration).

3. The European Data Protection Supervisor has issued its opinion on the package on 3 March 2023[4]. The European Economic and Social Committee has issued its opinion on the package on 27 April 2023[5]. The European Parliament has been consulted; its opinion on the package is still pending.

II. WORK IN THE COUNCIL PREPARATORY BODIES

4. The Commission presented its proposals on 12 December 2022 to the Working Party on Tax Questions (WPTQ) under the Czech Presidency, where they were broadly welcomed by delegations.

5. After meetings of WPTQ with a broad exchange of views on the aims and directions proposed by the Commission to guide the further handling of the package in the WPTQ, the Swedish Presidency proceeded to in-depth discussions on each of the strands below.

a) Digital reporting requirements

6. The Commission is proposing to move to a fully digitalised mandatory transaction-by-transaction reporting system for intra-EU transactions in 2028. To support this, Member States would need to move to e-invoicing, which would become the default system for issuing invoices and which would be based on a European standard. Data on intra-EU transactions extracted from the e-invoices would be transmitted to an EU database (the central VAT information exchange system or 'the central VIES') to allow for reporting and controls. Member States would also have the option to move towards a digital reporting system for domestic transactions.

[4] Doc. 7071/23.
[5] Opinion of the European Economic and Social Committee, "VAT in the Digital Age", doc. ECO/606, https://webapi2016.eesc.europa.eu/v1/documents/P6FJPSUHKDC2-1879354131-3598/download

7. The digital reporting requirements proposed in the package were clarified during several WPTQ meetings. In particular, delegations took time to improve their understanding of some key concepts under the proposed systems, such as structured electronic invoices, the European invoicing standard used for public procurement under Directive 2014/55/EU[6], and the clearance and validation of invoices. They also looked into the proposed functioning of the central VIES and its implications for data sharing and protection.
8. The WPTQ analysed the translation of these concepts and procedures into the legal text of the amending Directive and the amending Regulation. Numerous questions were asked on the deadlines for the implementation of the new system, more specifically if these allowed for enough time to adapt the applicable IT systems.
9. There is a broad consensus on building an intra-EU digital reporting system based on e-invoicing, as well as on the need to provide for a framework for an optional domestic reporting system, but more work needs to be done on the detailed modalities of e-invoicing and digital reporting.
10. On the basis of the discussions in the WPTQ, the Presidency presented a compromise text on the most important aspects of the new system, i.e. electronic invoices and the digital reporting requirements.

b) Platform economy

11. The "VAT in the Digital Age" proposals seek to ensure a common and simplified approach to the taxation of the platform economy and to create a level playing field for VAT purposes between traditional suppliers of short-term accommodation rental and passenger transport services and those operating through platforms. To achieve this, the Commission proposes to move to a "deemed supplier" model for the latter services. Put simply, where a supplier operating through a platform does not charge VAT (e.g. because it is an exempt small enterprise), the platform would charge it.

[6] Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133, 6.5.2014, p. 1).

12. At the meetings of the WPTQ devoted to this volet of the package, delegations had the opportunity to delve deeper into the reasons for taking action and the rationale behind the deemed supplier solution. The legal text was closely examined, including the definition of short-term accommodation rental and its implications for the other provisions in the VAT Directive.

13. Taking into account delegations' comments, the Swedish Presidency proceeded to present a compromise text on the articles related to the platform economy in the amending Directive and the amending Implementing Regulation, simplifying and limiting the scope of the deemed supplier provision and modifying the definition of short-term accommodation rental. The text was broadly welcomed by delegations as a solid basis for further work, although more work will be needed on the modalities and the necessity or scope of a harmonised definition of short-term accommodation rental.

c) Single VAT registration

14. As regards the third objective, the Commission package contains a range of improvements to the system put in place under the VAT e-commerce package in recent years on the one hand, and a series of new features that would reduce the operations for which VAT registrations in multiple Member States are necessary.

15. Both the improvements and the new features were studied on a topic-by-topic basis at the meetings of the WPTQ. In general, the delegations assessed the proposed improvements quite positively, and while most new features were broadly welcomed, some concerns were raised.

16. In particular, these topics were discussed:

- the extension of the EU VAT one-stop shop to domestic business-to-consumer supplies could count on a great deal of support;
- the addition of a module in that one-stop shop to address transfers of own goods was broadly welcomed;
- the obligatory reverse charge mechanism for business-to-business supplies in situations where a supplier is not established for VAT purposes in the Member State where the VAT is due was supported by most delegations subject to certain changes;

- the capacity to enforce a mandatory import one-stop shop for electronic interfaces was questioned, and will need to be looked at in the context of the changes proposed to the Union Customs Code;
- and the extension of the deemed supplier provision in certain situations was met with objections from many Member States.

17. Based on the thorough examination of the articles in the various proposals related to the above topics, the Presidency presented a compromise text with regard to these articles to accommodate the concerns and suggestions of the delegations. The delegations assessed the text as a step in the right direction.

III. QUESTIONS TO THE MINISTERS

18. To sustain the momentum for this important file, the Presidency – while noting that a lot of technical work and reservations remain – wishes to seek political guidance on a number of key issues. Therefore, Ecofin ministers are invited to express their views on the following questions with a view to the future work:

1) With regard to the shift to new technologies such as electronic invoicing and digital reporting, including in the fight against tax fraud, do ministers agree that there is a need to address the fragmentation of the internal market and provide for a consistent framework of reporting based on e-invoicing for intra-EU and domestic transactions?

2) Do ministers agree that platforms should have an enhanced role in the collection of VAT in the short-term accommodation and passenger transport sectors to provide for more simplicity, better compliance and a level playing field?

3) Do ministers agree that the one-stop shop concept and the reverse charge mechanism should be enhanced to overcome the need for multiple VAT registrations for businesses that operate in the internal market?