

UNICE

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**UNICE POSITION PAPER ON THE COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT ON
“A STRATEGY TO IMPROVE THE OPERATION OF THE VAT SYSTEM WITHIN THE CONTEXT OF THE INTERNAL MARKET”
(COM(2000)348 FINAL)**

Introduction

In June 2000 the Commission issued a Communication to the Council and the European Parliament regarding a strategy to improve the operation of the VAT system. In this paper the Commission states that the Internal Market could and would function better with a VAT system based on taxation in the Member State of origin, however the Commission recognises that in the current climate it is unlikely that significant progress will be made in the immediate future. Although the Commission does not question the idea of a definitive system, the Commission considers it necessary to reappraise the 1996 programme and define a viable strategy based on the four main objectives, namely

- ?? Simplification and modernisation of current rules
- ?? More uniform application of current rules and
- ?? Closer administrative co-operation.

In its strategy, the Commission distinguishes three phases, namely

- ?? Phase one : Adoption by the Council of the proposals already tabled
- ?? Phase two : Presentation of new proposals
- ?? Phase three: Evaluation and definition of future priorities

Phase one: 2000/2001 - the adoption by the Council of the proposals already tabled

Phase one refers to the proposals on

- ?? Changes of the status of the VAT Committee (COM(1997)325)
- ?? Improving mutual assistance on recovery (COM(1998)364)
- ?? Proposal on the right to deduction and the Eighth Directive (COM(1998)377)
- ?? Proposal on the person liable for VAT (COM(1998)660)

The Commission states that these already tabled proposals should be adopted as soon as possible.

UNICE recalls its position paper on the changes to the status of the VAT Committee issued in January 1998. UNICE endorses the importance of uniform application of the common VAT rules. However, legal certainty and the business view of the Community VAT legislation are

also of great importance. UNICE is therefore in favour of the introduction of a regulation based on the Sixth Directive consisting of a framework of common rules in which the regulatory Committee is entitled to establish legally binding uniform interpretation.

With respect to the right to deduct, UNICE emphasises its demand for full deduction for all expenditures. If all business expenditures are not deductible, one of the major principles of VAT - neutrality - will not be obtained.

With respect to the proposal on the Eighth Directive, UNICE recalls its position paper regarding the refund of foreign VAT also issued in January 1998. The current reimbursement procedure is time and money consuming. UNICE is in favour of abolishing the Eight Directive and introducing a system in which foreign VAT can be deducted in the home Member State. After the credit of the VAT, the Member States will have to clear the VAT between themselves.

Phase two: 2000/2001 – Presentation of the new proposals by the Commission

In Phase two, the Commission will table proposals for Directives in the following areas:

- ?? Taxation of postal services
- ?? Taxation of e-commerce
- ?? Invoicing including electronic invoicing
- ?? Revision of rules on administrative co-operation and mutual assistance
- ?? A minimum standard VAT rate

- ?? A report on the application of the reduced rate

UNICE is of the opinion that the Directives on the taxation of e-commerce and the Directive on invoicing (including electronic invoicing) should have priority. Cross-border e-business is a new and potentially revolutionary economic development, which makes it necessary to give priority to the two directives just mentioned.

At present, non-EU suppliers of digital deliveries already have a competitive advantage over EU suppliers of digital deliveries. Technical developments will increase the downloading of digital deliveries in the future. Furthermore there seems to be a tendency for hardware and software to be delivered separately. This implies that it is necessary to adjust the Sixth Directive in such a way that there will be a level playing field for all participants.

Furthermore, UNICE is of the opinion that the simplification and harmonisation of invoicing requirements would facilitate business transactions and reduce the administrative burden on both enterprises and tax authorities. At present, the different invoicing requirements are one of the problems of the reimbursement of foreign VAT. The different invoicing requirements are also a problem for businesses that are registered in several Member States and which therefore have to comply with different sets of rules. Harmonized and simplified invoicing requirements have now become essential to safeguard and enhance the competitive position of European businesses internationally, especially in the context of e-business and the emerging information society.

UNICE will publish position papers regarding the taxation of electronic commerce and invoicing in the near future.

Phase three: 2000/2001 – Evaluation and the definition of future priorities

UNICE has studied the various proposed subjects with great interest. We endorse the discussion of all subjects. From a business perspective, UNICE suggests that the following subjects should have priority:

?? The place of supply of services

e.g. maintenance and repairs: if, for example, a UK supplier is doing some maintenance in another EU Member State, that supplier is liable to VAT there and therefore needs to be registered in that Member State.

e.g. training: if, for example, a UK entrepreneur is attending a course or seminar abroad, the entrepreneur will be confronted with foreign VAT.

?? The place of supply of goods

e.g. installation: if, for example, a UK supplier is doing an installation job in another EU Member State, that supplier is liable to VAT there and therefore needs to be registered in that Member State.

e.g. cross border consignment stock and call-off stock: different Member States have different rules regarding consignment stock and call-off stock. This implies that in some Member States an entrepreneur is obliged to register for VAT, but not in others. Further, due to the different legislation there will be mismatches between supplies and acquisitions.

The current rules on the place of supply of goods and services give rise to several problems, as illustrated by the examples above. The current rules often imply that an entrepreneur is obliged to register in several Member States. Besides this, the current rules often result in an entrepreneur being confronted with foreign VAT, which only can be reimbursed via the time and money consuming Eighth Directive procedure. Furthermore, rules are not always interpreted in the same way, as a result double or non-taxation takes place. A uniform interpretation of rules and an extension of the reverse charge mechanism would solve many of these problems.

?? Treatment of financial services

e.g. restructuring a company: for example, the internal restructuring of a company (through changes in the legal entity structure) may lead to disputes regarding the deductibility of input VAT.

Regarding the treatment of financial services, UNICE recalls its discussion paper on VAT and Business Financing (issued in November 1998). Business investment should be treated differently from financial investment. The restriction on the recovery of VAT on business investment should be limited.

In general, UNICE notes a growing concern that the Internal Market and internationalisation of business for companies of all sizes is not reflected in changes in VAT law. The present situation with different VAT rules and different interpretation of rules is becoming more and more untenable for business.

Conclusion

UNICE endorses the approach of the Commission to improve the current transitional VAT system. UNICE is also in favour of the step-by-step approach. However, we wish to remark on the significant lack of progress since the introduction of the transitional system in 1992/1993, with the exception of the Telecom Directive. UNICE urges the Commission and, most of all, Member States, to do their utmost to improve the present VAT system in order to

make it, and the Internal Market, more functional in an international world. UNICE restates its willingness to offer cooperation and advice in order to achieve this common aim.

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