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Dear Sir,

BUSINESSEUROPE plays a crucial role in Europe as the main business organization at EU level. Through its 40 member federations, BUSINESSEUROPE represents 20 million companies from 34 countries. Its main task is to ensure that companies' interests are represented and defended vis-à-vis the European institutions with the principal aim of preserving and strengthening corporate competitiveness.

BUSINESSEUROPE follows the work the OECD is engaged in on VAT/GST with great interest and highly appreciates the increased focus of the OECD in VAT/GST.

The importance of VAT/GST in today's tax world has highly increased - over 150 countries are operating a VAT/GST system across the globe, and with new technological developments and the increased globalization in doing business, new business models and new complex products and services structures have come up which makes it necessary to look at VAT/GST in a more global context. We feel the OECD plays a big role in this and encourage the OECD to do further work on VAT/GST.

We would like thank you the OECD very much for the great work done on VAT/GST in the last years and for having established the fundament - with the successful TAG process set up – for a new way of working together between business and governments on VAT/GST in a real partnership on an International Level. This is a great achievement and a best practice and was from our perspective also instrumental for the set-up of the new groups on an EU level as part of the White Paper, allowing business to be more actively involved in shaping new EU VAT policies and discussing current EU cross-border challenges in practice

BUSINESSEUROPE highly appreciates the work the OECD is doing on International VAT/GST Guidelines and welcomes the opportunity to participate in the OECD Consultation on the draft consolidated version of the Guidelines published in February 2013.



From an overall perspective we would like to endorse the Guidelines and would like to stress the high importance of the guidelines for the entire global business community.

Please find some specific comments below:

Chapter 1: Core features of a VAT

Business plays an important role in the VAT system. As tax collector business is the key partner for governments. We would like this to be highlighted in a bit more depth in chapter 1 as this partnership is crucial for a well-functioning VAT system and was highly important for the development of the OECD VAT/GST Guidelines so far. This partnership will also continue to be significant for the OECD VAT/GST Guidelines' future developments – both for striking a balance between the fiscal aims of the policies and their smooth operation in practice, considering government and business needs, and for the implementation of the Guidelines into law and practice.

Chapter 3: Place of taxation

1) Comments on Multiple Location Entities (MLEs):

As we understand the MLE Guidelines merely deal with externally bought-in services. There are 3 methods referred to in the Guidelines (direct allocation method, head office approach, recharge method) when it comes to ensuring that the place of taxation is in the jurisdiction where the business uses the externally bought-in services in its business operations.

Considering the 3 methods discussed, we would like to fully endorse that ensuring a straight forward and efficient application in practice the recharge method – which follows the documentation flow - is the best way for business (supplier and customer) and tax authorities to operate in, as it conceptually follows other regulatory, accounting and tax regulations and is also in line with the agreed approach for Single Location entities.

To achieve the aim of the Guidelines (resolve the current issues on double taxation and non-taxation) it is important that governments agree on one method (recharge method). A combination of various methods (direct allocation, head office and recharge method), which governments can choose from will be against the aim of the Guidelines and will not put away with double and non-taxation

To keep efficiency high and not increase any red tape and bureaucracy for business in practice, we would, however, like to underline and stress the importance of the following aspects:

- No reverse charge to be applied for **fully taxable business** (see Australia, NZ, South Africa) on cross-border transactions between head office and its



establishments (and vice versa) and also for cross-border transactions between establishments itself resulting in no VAT consequences (no cash flow and less red tape)

- When it comes to **not fully taxable business**, VAT should be applied through the reverse charge regime merely on the recharge of externally bought-in services (see NZ) - no VAT should apply on internal add value otherwise this will create artificial VAT costs for the exempt sector
- To be efficient and not increase bureaucracy in practice business requires a standard process
 - o services supplied cross-border (e.g. to a central purchasing company abroad) with a local element (part of the service is physically rendered locally) should **not** lead to a carve out of the local element in order to ensure local taxation - the normal process should be applied here too (two step approach: place of taxation where the customer is located supported by the business agreement, followed by a recharge based on the internal recharge arrangement). To ensure local taxation it could be envisaged for the local supplier to inform his local tax authorities about that there is a local element involved here which then the local tax authorities can follow up on as they feel it is appropriate and required

As the internal add value aspect was out of the scope and therefore not covered in the Guidelines, we feel that further thoughts need to spend and work needs to be done on if an internal add value takes place on a bought-in service or if a bought in service is transformed into different service within the business process, which is then supplied onwards. This is an important aspect to consider in order to give business and tax administrations further legal certainty.

2) Comments on the Specific rule:

We would like to endorse that specific rules need to be applied as limited as possible and only if they lead to a significantly better result than the main rule, otherwise they will undermine the well-functioning of the main rule and will therefore be against the destination system which tries to ensure taxation at the customer location.

As the Guidelines mention, areas where specific rules might have to apply are:

- on the spot supplies, at a readily identifiable location, supplied to B2B and B2C, as this is the best way taxation can be ensured while at the same time being a relief for the supplier when it comes to determine the status of the customer
- services connected to immovable property
 - o we would like to stress that there needs to be a very close, clear and obvious link or association between the supply and the immovable property - immovable property needs to be the object and therefore the heart of the supply and must constitute its predominant characteristics - otherwise there is a danger that almost every service is seen as a service connected with the immovable property with the consequence that the specific rule is not applied in a restricted way anymore, which will heavily undermine the destination principle and will cause high compliance costs tax administrations and for business (foreign VAT



registrations and foreign VAT refunds) particularly in today's world where the supply of services is in practice very often subcontracted multiple times within the business process involving multiple parties (both local and foreign established parties).

3) General aspects

We would also like to take the opportunity to highlight and comment on some general aspects:

We understand and appreciate that "Reciprocity" is a highly political topic, a topic which is bilaterally or even unilaterally handled by the OECD member countries. However, taking into consideration the principles inherent in the VAT system and the fact that the OECD VAT/GST Guidelines also substantially cover the neutrality aspect, we feel, it is very important for business to stress that "Reciprocity" violates neutrality.

Business as tax collector – those being entitled to recover VAT - should always be allowed to ask for and receive a VAT refund. "Reciprocity" prohibits business to do so. Therefore further attention should be given to this topic with the aim to explore further whether and how the current situation can be improved. The OECD could be a great platform to kick off further thoughts and work on this topic and we would like to encourage the OECD to do so.

Reference is made in Chapter 2 point 2.4.3 (Commentary to the VAT Neutrality Guidelines) regarding "Groups of countries". We would like to stress that business requires 1 set of rules to be able to collect VAT efficiently and keep collection cost as low as possible. Having for example to apply different rules on the same type of transaction just because a service is supplied (a) within the EU or (b) between the EU and Non-EU is unacceptable for business and would be against the basic and key neutrality principle that the burden of value added taxes themselves should not lie on taxable businesses except where explicitly provided for in legislation. We highly encourage the OECD to stress this point towards the OECD member countries and emphasize the business needs for 1 set of rules.

In the long run after having put the framework of the Guidelines together, we would like to encourage the OECD to do further work on a common global understanding of the following terms:

- "establishment"
- "services and intangibles"
- classification "goods" vs. "services and intangibles"

Finally we would like to congratulate the OECD for reaching out to non OECD economies, being the future growth economies. This is an important milestone and a great move, which business highly welcomes and highly appreciates.

Setting up the first Global Forum on VAT in November 2012 – allowing business to be actively involved in it as well – in order to build and further strengthen the dialogue



with non-OECD economies is not only key for future growth but also very important to spread the OECD VAT/GST guidelines further.

The entire business community highly supports this initiative and would like to encourage the OECD to move forward on this path with active business involvement.

Kind regards,

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Chairman of the BUSINESSEUROPE VAT Group