

9 November 2016

VAT ACTION PLAN – BUSINESSEUROPE POSITION PAPER

KEY MESSAGES

- 1 BusinessEurope welcomes the Action Plan on VAT, which sets out a pathway for the creation of a single VAT area in the EU**, in contrast to the present highly fragmented and complex system. Maximum clarity, simplicity and legal certainty, alongside further practical actions which must be targeted and proportionate, are required to help reduce the complexity of the current system and its susceptibility of VAT to fraud and to further reduce the VAT Gap.
- 2 BusinessEurope supports the destination principle, as agreed by the European Council in 2012 whereby VAT is levied at the place and at the rate where the good or service is consumed, but further work on the collection methods needs to be done before a decision can be taken on whether the current system – exempted cross-border supply and taxable cross-border acquisition - should be changed.** Further, there must be an equal treatment of both domestic and cross-border suppliers and of goods and services as this supports the supply chain.
- 3 BusinessEurope calls for a comprehensive package of measures to simplify VAT and ease the administrative burden, particularly for SMEs.** This should include: an **improved One-Stop-Shop** relating to all EU and non-EU sales of goods to consumers, including electronic transactions; an **EU VAT Web Information Portal** to address the difficulty of businesses needing to have the correct information on the VAT rules (including the correct rates) in the state of residence of the consumer; enhanced co-operation between tax authorities to reduce complexity, increase efficiency and ensure neutrality by encouraging timely refunds to businesses for VAT already paid.

WHAT DOES BUSINESSEUROPE AIM FOR?

BusinessEurope supports efforts to modernise the EU VAT system. The current VAT system is highly fragmented and complex and subsequently reduces and distorts trade and investment. The VAT system should be as neutral as possible regarding businesses' decisions to invest and to trade cross-border, and the high administration cost to businesses of acting as unpaid tax collectors must be significantly reduced.

KEY FACTS AND FIGURES

Almost €1 trillion VAT is paid annually in the EU, with businesses key to administrating VAT.



9 November 2016

VAT ACTION PLAN – BUSINESS EUROPE POSITION PAPER

Introduction

The success of the internal market in order to stimulate trade also puts pressure on the current VAT system. BusinessEurope supports the decision taken in the Communication on the Future of VAT in December 2011 and endorsed by the Council and the European Parliament to work towards a system based on the destination principle as the definitive regime.

However, as the destination principle can be adopted in different ways, each having their own complexities, sensitivities to fraud and counter fraud measures enacted by Member States, we need to agree on the final system, setting a path out to address both the immediate and the long run shortcomings and deliverables.

BusinessEurope finds it important to look at all the measures in the EU VAT Action Plan in a holistic way, ensuring that any short term measures facilitate the long run outcome while at the same time addressing the immediate challenges faced. Any solution should reduce the administrative burden for businesses (and the millions of transactions they perform each day) and Member States as well as cater for cash-flow which is highly important for the competitiveness of the European businesses, particularly for the survival and growth of SMEs while ensuring that fraud can be fought against in a target-oriented way.

BusinessEurope recognizes the concerns related to the VAT Gap. However, the gross amount of taxable transactions is extremely high. All trade between taxable businesses is subject to VAT. Taxable businesses can deduct input VAT and have to account for output VAT. The VAT is collected using the fractional payment model distributing the risk through the supply chain. The consequence is that any system has to facilitate the smooth handling on all these millions of everyday transactions. Therefore, the VAT system needs to encourage trade domestically as well as in the internal market. Any measure to reduce VAT fraud that has a cost on all the daily transactions reduces overall growth and therefore comes with an employment and revenue cost. Thorough risk analyses and close cooperation between Member States are key in order to eliminate the fraudsters from the system without punishing legitimate business in their day-to-day trade.



We support the destination principle

BusinessEurope supports the efforts from the Commission to reach a political agreement and direction on the final system based on the principle of taxation in the country of destination but also emphasizes that with regard to the various options, including a general reverse charge or the option of charging VAT on intra EU transactions, further substantive work involving all stakeholders is required.

Equal treatment of goods and services – a future proof system

BusinessEurope prefers a system where goods and services (place of taxation for intra-community supplies of goods where the customer is established), are treated in the same way as this better allows for chain transactions and other more interactive business transactions. We anticipate that as the delivery of goods and services gets even more intertwined in the future, having a system with identical VAT-treatment, regardless of whether it is a good or a service, would make the system more conducive to growth and robust against fraud.

The Commission suggests a model based on taxation of cross border transactions following the flow of goods. Following the flow of goods has caused difficulties in the past both for businesses and for tax administrations and has led to different treatment of goods and services. While we understand that Member States have concerns regarding this approach, we would nevertheless support the Commission undertaking a thorough analysis of the pros and cons when it comes to applying the same place of taxation rules for goods as for services and are very happy to support the Commission in this initiative.

Collection of VAT

When it comes to the collection of VAT in a destination based definitive regime, we need to find collection methods that are targeted and cater for the diversity of businesses without complicating the VAT system. SMEs and MNEs have the same challenges but in a different scale and magnitude. The key issue is the balance between administrative costs per transaction and the cash-flow/working capital impact on the business. While the reverse charge, if applied efficiently without onerous reporting obligations, can be a very efficient way for most transactions, alternatives like charging VAT on intra EU-transactions or enhanced cooperation between Member States need to be investigated simultaneously in order to decide upon a VAT collection model that is widely supported and accepted.

BusinessEurope recognizes the fundamental change when introducing a wider reverse charge and the concerns Member States have in this. To those concerns, we add the observation that at the same time most Member States in their fight against fraud have introduced a reverse charge mechanism for specific sectors.

On the option to charge VAT for intra community trade, the VAT Action plan lays out a number of mitigation measures for further investigation. We believe mitigation



measures (including the suggested for certified taxpayers but also for companies belonging to the same group) are a necessary condition. These measures should include SMEs and should be explored before a decision on a collection method can be taken.

Further improving and broadening the OSS (also looking at the input VAT deduction/VAT recovery side and home-country audits) is required and is extremely important to remove the VAT obstacles, otherwise the concept of any destination based definitive regime will fail.

BusinessEurope is happy to support the Commission and Member States on the very important work regarding the collection methods with its expertise.

Digital economy and B2C sales in general

BusinessEurope supports the efforts to remove VAT obstacles to e-commerce in the single market, but it is important to ensure equal treatment of businesses regardless of them being involved in e-commerce or other B2C cross-border trade. The singling out of small start-up e-commerce businesses compared to other small start-ups is similarly concerning.

BusinessEurope supports the extension of the One-Stop-Shop to B2C as an important measure to remove the VAT obstacles. In addition to extending the One-Stop-Shop, it is important to look for further improvements by for example allowing for home country checks, including single audit of cross-border businesses, reducing the document/data retention time limits, simplifying the error correction process, etc.

It is also important to introduce a common EU-wide VAT threshold instead of the current distance sales regimes to help small start-ups, regardless of whether they have an e-commerce business, are providing electronic services or engage with other B2C trade.

Import of small consignments from non-EU suppliers

BusinessEurope takes stock of the suggestion to remove the VAT exemption for imports of small consignments from non-EU suppliers. BusinessEurope recognizes the need to adjust the current threshold, but also highlights the need to find an easy alternative to ensure the payment of VAT on these imports in order to ensure free and fair international trade, and a level playing field between EU and non-EU businesses, whilst not imposing additional compliance costs on businesses acting as tax collectors.

SME simplification package

Agreeing and identifying the best measures to address the problems and challenges for SMEs depends partly on the political agreement on the final VAT system.



Regardless of the design of the final system, SME are currently in dire need of getting quick and accurate access to the relevant information about the implementation of the VAT system in the different Member States. Part of the digital agenda should be aimed at finding ways of providing this information swiftly, easily and in a language that the SME can understand. BusinessEurope urges Member States to establish an EU VAT Web Information Portal for business with a particular focus on SMEs.

The best long-run solution would be for all businesses, particularly SMEs, to be able to use an extended One-Stop-Shop with home country audit and the possibility to offset input VAT. As expressed by some SMEs: “It would be a dream come true”. BusinessEurope believes this would be the most important simplification measure for SMEs, as their main challenges when doing cross-border trade is registering and understanding the VAT rules in the other Member States.

The second most important simplification is to make the entire VAT system simpler. The fewer differences in terms of administration, reporting, collecting and different application – the easier it will be for SMEs to do business in Europe.

BusinessEurope supports the promised 2017-initiative of the Commission to prepare a comprehensive simplification package for SMEs and will be contributing actively. Representing more than 20 million businesses across Europe, BusinessEurope is representing many millions of SMEs and we are actively engaging with them through our national federations in order to bring forward their concerns.

Urgent measures

The most challenging parts of the VAT Package are the urgent measures presented. BusinessEurope endorses the improved cooperation between tax administrations including the legislative proposal to be presented in 2017 to strengthen EUROFISC. BusinessEurope has actively participated in the EU VAT Forum in preparing the “Guide on Administrative Cooperation between Member States and Businesses”¹ and would be willing to extend further guidance.

The increasing numbers of national derogations is a concern. Even though they may have some local benefits, the disadvantages may be shifted to other Member States and complexity as well as compliance costs are increased. We therefore support, as pointed out in the VEG Opinion issued on May 20th, 2016, that *“Any Member State specific approaches, such as a generalised reverse charge system, even on an experimental and national basis, would put at risk the development of a coherent, harmonized and fraud proof VAT system for all Member States and stakeholders. Any such uncoordinated standalone measures adopted by Member States would shift focus from the overriding objective of putting in place a definitive regime at the earliest opportunity. It would create additional distortions within the internal market and thereby also increase opportunities for fraud. We urge the Commission and Member States to abstain from supporting such Member State specific approaches and to work together with all stakeholders in devising a definitive VAT system”*.

¹ Published by the EU VAT Forum on 24 February, 2016



BusinessEurope calls for measures to be evaluated from an internal market perspective and for Member States to work closer together on their administrative solutions. BusinessEurope recognizes the national competence of the Member States, but believes the responsibility for Member States to also contribute to simplifying the overall VAT system in the EU should be fully recognized and acted on.

Towards a modernized rates policy

The EU-Commission presents two options for a modernized rates policy. In a destination based system, businesses would be required to deal with the VAT rates of all the Member States. This will clearly complicate the application of VAT for businesses since the application of zero-rates and reduced rates is complex in terms of determining which products fall within the scope of these rates and when. This often leads to a lack of legal certainty, boundary disputes (where to draw the line between qualifying and non-qualifying items) and can lead to distortion of competition between businesses.

The need for an EU VAT Information Portal

For BusinessEurope, it is crucial that businesses have legal certainty about the rate applicable to a specific good or service and have easy access to this information across Europe. Therefore, regardless of whether Member States choose to continue with approved lists with reduced rates or if the Member States can decide for themselves, BusinessEurope believes that, as a minimum, applicable VAT rates and conditions for zero-rate should be published on an EU VAT Web Information Portal. Such a VAT Web portal would allow businesses to access and understand the basic VAT rules in other Member States, thereby facilitating a higher level of compliance, reducing administrative burdens for business and encouraging businesses to trade in other Member States, thereby increasing investment, growth and jobs.



Appendix

Collection of VAT – More detailed measures

As mentioned in the position paper, BusinessEurope believes further work on the collection of VAT, mitigation measures and on further improving and broadening the OSS is extremely important. Otherwise the concept of any destination-based definitive regime will be excessively burdensome and will ultimately fail to achieve its objectives.

These measures should include:

- Providing a single online service that businesses can use to easily determine if their customer is a Certified Taxable Person, and ensuring that the criteria used to define a Certified Taxable Person do not increase current administrative burdens on business;
- Introducing a common EU-wide registration threshold to relieve burdens on SMEs and other businesses that may trade infrequently cross-border or make one off supplies;
- Mandating that the invoicing rules in the country where the supplier is established apply to supplies made to every other Member State;
- Mandating that exchange rate rules applicable to reporting and invoicing are the exchange rates applicable in the Member State where the supplier is established, including any requirements to convert VAT amounts into local currency on invoices and reports;
- Mandating that any audits are performed by the tax authority in the country where the supplier is established and are undertaken according to the rules of that country, not of the destination country;
- Mandating that suppliers do not have to submit additional reports e.g. domestic sales and purchase listings, or VAT data, to destination Member States outside of the OSS scheme;
- Mandating that tax point, data, invoice storage and billing system certification rules (as applicable) in the country where the supplier is established apply to supplies made to every Member State;
- Managing non-compliance within the OSS to ensure that a business committed to compliance cannot be removed from the scheme and required to register for VAT outside the scheme in each Member State of delivery;
- Agreeing a single penalty regime for non-compliance;
- Ensuring VAT cash flow neutrality for businesses linked to input VAT deduction, both domestic and foreign;
- Providing the option to certain industries to use EU nomenclature codes;

In the absence of a VAT deduction solution underpinning the proposals, this will put immense pressure on VAT refunds (a system with which there are already significant concerns in a number of Member States under the current regime). High compliance costs are a problem for all businesses.