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REPORT

on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions
(COM(2008)0147 – C6-0154/2008 – 2008/0058(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: José Manuel García-Margallo y Marfil

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	10
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS	13
PROCEDURE	16

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions

(COM(2008)0147 – C6-0154/2008 – 2008/0058(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0147),
 - having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0154/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs (A6-0448/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a directive – amending act

Recital 1

Text proposed by the Commission

(1) The evasion of value added tax (VAT) has a significant impact on the Member States' tax revenue and distorts economic activity in the single market by creating unjustified flows of goods and by placing goods on the market at abnormally low prices.

Amendment

(1) The evasion of value added tax (VAT) has a significant impact on the Member States' tax revenue and distorts economic activity in the single market by creating unjustified flows of goods and by placing goods on the market at abnormally low prices. ***Furthermore, VAT evasion affects***

not only the financing of Member States' budgets but also the overall balance of the European Union's own resources in so far as reductions in VAT own resources have to be compensated for by an increase in the gross national income of own resources.

Justification

The proposed addition aims at clarifying that VAT evasion not only affects the financing of Member States' budgets, but also the EU own resources system. This constitutes a further reason for combating VAT evasion at EU level.

Amendment 2

**Proposal for a directive – amending act
Recital 4 a (new)**

Text proposed by the Commission

Amendment

(4a) In order to improve and increase the efficiency of the application of Directive 2006/112/EC, the Commission should encourage the tax administrations in the Member States to develop their administrative capacity in order to be able to receive statements by electronic means for as many categories of taxable persons as possible.

Justification

To lighten the administrative burden for taxable persons (and reduce costs), also in view of the increased frequency with which statements are to be made.

Amendment 3

**Proposal for a directive – amending act
Recital 6**

Text proposed by the Commission

Amendment

(6) In view of changes in the business environment and tools, businesses *should* be guaranteed the possibility of meeting

(6) This Directive is in no way intended to affect actions carried out at Community level with a view to achieving a 25 %

their obligations with regard to declarations by simple electronic procedures in order to reduce the administrative burden to a minimum.

reduction in the administrative burden on companies by 2012. In particular, in view of the resulting changes in the business environment and tools, it is desirable that businesses be guaranteed the possibility of meeting their obligations with regard to declarations by simple electronic procedures in order to reduce the administrative burden to a minimum.

Justification

The proposed amendment makes it clear that the consequences on businesses of the new approach cannot affect the general objective - as already expressed on various occasions at EU level - of reducing the administrative burdens on companies by 25% by 2012.

Amendment 4

Proposal for a directive – amending act Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In order better to appreciate the impact of the new formal obligations, in particular as regards the extension of the information obligation to the supply of services, the Commission should draw up an evaluation report on the impact of those obligations, in particular on the administrative costs for individuals affected and for administrations, and of the effectiveness of those formal obligations in combating tax evasion. The Commission should submit a legislative proposal modifying the content of the formal obligations, if appropriate.

Amendment 5

Proposal for a directive – amending act
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The Commission should examine the possibility of setting up a database at European Union level that would contain the identification data of physical persons who have established, administered or managed companies involved in fraudulent intra-Community transactions in relation to VAT. Before a new company is registered, the relevant national body should ask the national tax administration for an EU tax record issued by it after consulting the respective database, to which it should be connected.

Justification

Given that fraudulent intra-Community transactions are carried out through the intermediary of ghost firms which cease operating after a single transaction, physical persons who have established, administered or managed such a ghost firm should be prevented from setting up new companies at European level.

Amendment 6

Proposal for a directive – amending act

Article 1 – point 7

Directive 2006/112/EC

Article 263 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Member States may, however, authorise recapitulative statements to be submitted by other means for certain categories of taxable person.

Member States may, however, authorise recapitulative statements to be submitted by other means for certain categories of taxable person ***until ...*** *.

**** OJ please insert date: 1 January of the year after entry into force of Directive .../.../EO (the amending directive).***

Justification

The use of alternative means of information transfer would considerably slow down the processing and exchange of information. Given the fact that all VAT registered operators have access to a computer and the net, the electronic transfer of information would not lead

to an increase of administrative burden for them. The information is gathered anyway so it is just the operation of sending it that would be carried out more often which would not lead to an increase of the administrative burden but would speed up the information transfer between MS and allow for improving the fight against fraud.

Amendment 7

Proposal for a directive – amending act Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Commission report

By ... *, the Commission shall draw up a report evaluating the impact of this Directive. That report shall focus, in particular, on the administrative costs arising from the new formal obligations for individuals affected and on the degree of effectiveness of those formal obligations in combating tax evasion. The Commission shall submit a legislative proposal modifying the content of the formal obligations, if appropriate.

**** OJ please insert date: two years after the date of entry into force of this Directive.***

Justification

1) In order to combat tax evasion related to transactions within the Community, it is essential to be very flexible and effective.

2) A major reform of the VAT is expected during the next Commission's period.

EXPLANATORY STATEMENT

Introduction

On 17 March 2008 the Commission adopted two legislative proposals relating to strategy for the fight against tax evasion: one amending Council Directive 2006/112/EC on the common system of value added tax ('the VAT directive'), and the other amending Regulation (EC) No 1798/2003, the aim being to combat tax evasion related to transactions within the Community.

As the members of this committee are aware, the fight against fraud, although to a large extent the responsibility of the Member States, cannot be undertaken at national level alone. Combating tax evasion must be a priority for the EU and must entail closer cooperation between Member States' administrative authorities and with the Commission. In this connection, the Commission, following the guidelines marked out by the Council since 2007, has prepared a **two-pronged strategy**, i.e.:

- 1) to envisage a **major reform of VAT**, which could consist of either introducing a reverse charge mechanism or of taxing intra-Community transactions via measures including a clearing-house;
- 2) a set of **conventional measures**, that is, alterations to the rules on VAT which do not require root-and-branch changes to the system in place and are aimed at introducing technical improvements to the administration of the tax.

The current speed of discussion in the ECOFIN Council does not suggest that there will be an in-depth VAT reform in the near future. This was confirmed by Commissioner Kovács when addressing the Committee on Economic and Monetary Affairs on June 2008.

Equally, the French presidency has not included a root-and-branch reform of VAT among its priorities. What remains, therefore, are the **conventional measures**.

In its conclusions of 5 June 2007, ECOFIN identified the following conventional measures as having priority:

- introducing modifications to the declaration of intra-Community sales, with a view to cutting deadlines;
- ensuring that Member State tax authorities undertake a more rapid sharing of the information contained in declarations;
- considering the possibility of introducing shared responsibility where an operator has not supplied the requisite data or has done so incorrectly and this has led to VAT losses at a later stage of the collection procedure;
- improving the information available on operators identified for VAT purposes, without adversely affecting Member States' risk analyses.

The proposal for a directive and proposal for a regulation that make up the present package **only partially cover some of the aspects signalled as having priority by ECOFIN**.

Commissioner Kovács confirmed at his appearance on 25 June that the Commission will, in

the next few months, submit proposals for implementing ECOFIN'S June 2007 proposals. These will take the form of:

- a proposal for a legislative modification aimed at introducing shared responsibility where an operator has not supplied the requisite data or has done so incorrectly (for October 2008);
- a legislative proposal aimed at ensuring that Member States have automatic access to the databases concerning the identity and activities of individuals (for November 2008);
- a reform of the VIES (VAT Information Exchange System) aimed at establishing minimum standards for the registration and de-registration of individuals (for November 2008).

Reference should also be made to the Court of Auditors' Special Report No 8, which is highly critical of the Member States, reproaching them for not having made sufficient efforts as regards administrative cooperation on VAT matters. This report makes a number of recommendations, including the following:

- reducing drastically the deadlines for obtaining and compiling data;
- ensuring the swift rectification of incorrect data;
- improving the workings of the validation of VAT numbers;
- reinforcing cross-checking, e.g. by including data on intra-Community transactions;
- facilitating direct access to data with a view to multilateral consultation.

Scope of the measures

The measures referred to in this report fall within the above framework. The Commission proposes accelerating the collection and exchange of data relating to intra-Community transactions. The existing provisions which the Commission wishes to see reformed include the collection of data relating to companies (summaries with information on intra-Community goods supplies), now undertaken on a quarterly basis. With this new measure, the Commission proposes:

- to harmonise and reduce to one month the period for declaration of intra-Community transactions via the summaries referred to in the VAT directive;
- to reduce from three months to one month the deadline for transmission of such information between Member States.

With a view to making available the information needed to combat fraud, it is further proposed that there should be a monthly collection of data on intra-Community transactions in goods and services involving a supplier established in another Member State and in relation to which the purchaser should pay VAT. To this end, purchasers or recipients engaging in such transactions where a sum of more than EUR 200 000 is involved per calendar year will be obliged to submit their VAT returns on a monthly basis. The Commission explains that this threshold has been set with the intention that firms making intra-Community purchases only

occasionally or with very small sums involved should not be burdened with additional obligations, while also taking account of what are considered significant sums in relation to fraud. In addition, it is proposed that the amounts relating to the transactions in question should be indicated separately in the declaration in order to facilitate cross-checking. The proposal includes provisions aimed at harmonising the rules on applicability of VAT to services, with a view to ensuring that both supplier and purchaser declare their transactions within the same period. This should permit the effective cross-checking of the information supplied.

The proposal also includes an important simplification measure for enterprises, since it obliges Member States to accept electronic file transfer as a means of supplying summaries and VAT returns.

The Commission makes it clear in its explanatory memorandum that most firms recognise that **making their returns monthly** would not represent an excessive burden for them. The SME representatives have confirmed that most SMEs would not suffer from such a measure.

According to the Commission, the measure will affect only a limited number of undertakings, namely those carrying out intra-Community transactions (that is, 4% of the firms registered for VAT purposes in the Community). Nonetheless, one may reasonably ask how far account has been taken in calculating this impact of the fact that enterprises which are providers of services are currently exempted from the formalities concerned. For such firms, the legislative reform would entail new and additional formalities.

Rapporteur's opinion

Your rapporteur certainly has an opinion on the Commission proposal, while reiterating that the legislative measures proposed **are only a part of the work that needs to be done**. It would be desirable for the Commission, in future, to submit its proposals in the form of an integrated legislative package, a measure which would certainly improve legislative quality. Given that the impact of the new obligations on service provision has not been evaluated in detail by the Commission, your rapporteur proposes an amendment which would provide for the drawing-up of an evaluation report on the effects of the new formal obligations, especially in terms of administrative costs for individuals and administrations, also taking into account the issue of effectiveness in the fight against tax evasion. In addition, in view of the justified criticisms of the Court of Auditors regarding the lack of effective administrative cooperation against VAT fraud, your rapporteur proposes an amendment which would strengthen the Commission's role in the preparation of analyses and the exchange of best practices.

5.11.2008

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions
(COM(2008)0147 – C6-0154/2008 – 2008/0058(CNS))

Rapporteur: Lidia Joanna Geringer de Oedenberg

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive – amending act Recital 1

Text proposed by the Commission

(1) The evasion of value added tax (VAT) has a significant impact on the Member States' tax revenue and distorts economic activity in the single market by creating unjustified flows of goods and by placing goods on the market at abnormally low prices.

Amendment

(1) The evasion of value added tax (VAT) has a significant impact on the Member States' tax revenue and distorts economic activity in the single market by creating unjustified flows of goods and by placing goods on the market at abnormally low prices. ***Furthermore, VAT evasion affects not only the financing of Member States' budgets but also the EU's own-resources system in so far as reductions in the VAT own resource have to be compensated by***

an increase in the gross national income own resource and thus distortions caused by VAT evasion affect the overall balance of the own-resources system.

Justification

The proposed addition aims at clarifying that VAT evasion not only affects the financing of Member States' budgets, but also the EU own resources system. This constitutes a further reason for combating VAT evasion at EU level.

Amendment 2

**Proposal for a directive – amending act
Recital 6**

Text proposed by the Commission

(6) ***In*** view of changes in the business environment and tools, businesses ***should*** be guaranteed the possibility of meeting their obligations with regard to declarations by simple electronic procedures in order to reduce the administrative burden to a minimum.

Amendment

(6) ***This Directive is in no way intended to affect actions carried out at EU level with a view to achieving a 25% reduction in the administrative burdens on companies by 2012. In particular, in view of the resulting*** changes in the business environment and tools, ***it is desirable that*** businesses be guaranteed the possibility of meeting their obligations with regard to declarations by simple electronic procedures in order to reduce the administrative burden to a minimum.

Justification

The proposed amendment makes it clear that the consequences on businesses of the new approach cannot affect the general objective - as already expressed on various occasions at EU level - of reducing the administrative burdens on companies by 25% by 2012.

PROCEDURE

Title	Combating tax evasion connected with intra-Community transactions (common system of VAT)
References	COM(2008)0147 – C6-0154/2008 – 2008/0058(CNS)
Committee responsible	ECON
Opinion by Date announced in plenary	JURI 10.4.2008
Drafts(wo)man Date appointed	Lidia Joanna Geringer de Oedenberg 25.6.2008
Discussed in committee	7.10.2008
Date adopted	4.11.2008
Result of final vote	+: 25 -: 0 0: 0
Members present for the final vote	Carlo Casini, Titus Corlăţean, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Neena Gill, Othmar Karas, Klaus-Heiner Lehne, Katalin Lévai, Antonio López-Istúriz White, Antonio Masip Hidalgo, Hans-Peter Mayer, Manuel Medina Ortega, Aloyzas Sakalas, Francesco Enrico Speroni, Diana Wallis, Jaroslav Zvěřina, Tadeusz Zwiefka
Substitute(s) present for the final vote	Sharon Bowles, Eva Lichtenberger, Rareş-Lucian Niculescu, Georgios Papastamkos, Gabriele Stauner, József Szájer, Jacques Toubon, Renate Weber

PROCEDURE

Title	Combating tax evasion connected with intra-Community transactions (common system of VAT)		
References	COM(2008)0147 – C6-0154/2008 – 2008/0058(CNS)		
Committee responsible Date announced in plenary	ECON 10.4.2008		
Committee(s) asked for opinion(s) Date announced in plenary	CONT 10.4.2008	IMCO 10.4.2008	JURI 10.4.2008
Not delivering opinions Date of decision	CONT 6.5.2008	IMCO 6.5.2008	
Rapporteur(s) Date appointed	José Manuel García-Margallo y Marfil 22.4.2008		
Discussed in committee	30.6.2008	9.9.2008	4.11.2008
Date adopted	5.11.2008		
Result of final vote	+: 38 -: 0 0: 0		
Members present for the final vote	Paolo Bartolozzi, Zsolt László Becsey, Slavi Binev, Sebastian Valentin Bodu, Sharon Bowles, Udo Bullmann, Christian Ehler, Elisa Ferreira, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Donata Gottardi, Benoît Hamon, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Wolf Klinz, Kurt Joachim Lauk, Andrea Losco, Astrid Lulling, Sirpa Pietikäinen, John Purvis, Alexander Radwan, Bernhard Rapkay, Antolín Sánchez Presedo, Salvador Domingo Sanz Palacio, Olle Schmidt, Margarita Starkevičiūtė, Ivo Strejček, Ieke van den Burg, Cornelis Visser, Sahra Wagenknecht		
Substitute(s) present for the final vote	Mia De Vits, Harald Ettl, Ján Hudacký, Werner Langen, Klaus-Heiner Lehne, Vladimír Maňka, Gianni Pittella		
Substitute(s) under Rule 178(2) present for the final vote	Wolfgang Bulfon		