

Friday 24 April 2009

## Common system of VAT as regards tax evasion linked to import and other cross-border transactions \*

P6\_TA(2009)0326

**European Parliament legislative resolution of 24 April 2009 on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards tax evasion linked to import and other cross-border transactions (COM(2008)0805 – C6-0039/2009 – 2008/0228(CNS))**

(2010/C 184 E/86)

(Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0805),
- having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0039/2009),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs (A6-0189/2009),
- 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.

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

### Amendment 1

#### Proposal for a directive – amending act

##### Recital 5

(5) VAT is payable by the person liable for the payment to the tax authorities. To safeguard payment of VAT, Member States may however provide that under appropriate circumstances another person is held jointly and severally liable for the payment of that VAT.

(5) VAT is payable by the person liable for the payment to the tax authorities. To safeguard payment of VAT, Member States may however provide that under appropriate circumstances another person is held jointly and severally liable for the payment of that VAT. ***In so doing, Member States should ensure that any measures to counter fraud are proportional and targeted at persons that have committed fraud.***

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

**Amendment 2****Proposal for a directive – amending act  
Recital 6**

(6) In order to guarantee that a supplier of goods who contributes to a VAT loss occurring when the goods supplied exempt of VAT are acquired by another person, may also be held jointly and severally liable for the payment of VAT due on the *intra Community* acquisition of those goods in a Member State where the supplier concerned is not established (non-established supplier), it is appropriate to provide for that possibility.

(6) In order to guarantee that a supplier of goods who contributes to a VAT loss occurring when the goods supplied exempt of VAT are acquired by another person, may also be held jointly and severally liable for the payment of VAT due on the *intra-Community* acquisition of those goods in a Member State where the supplier concerned is not established (non-established supplier), it is appropriate to provide for that possibility. **By ... (\*), the Commission should evaluate the functioning of joint and several liability and, if appropriate, submit a proposal for amendment in that regard.**

(\*) *Five years after the entry into force of this Directive.*

**Amendment 3****Proposal for a directive – amending act****Article 1 – point 2**

Directive 2006/112/EC

Article 205 – paragraph 2

2. In the situation referred to in Article 200, the person supplying goods in accordance with *the conditions laid down in* Article 138, shall be held jointly and severally liable for the payment of the VAT due on the intra-Community acquisition of those goods where *he* has not complied with the obligation provided for in Articles 262 and 263 to submit a recapitulative statement containing the information concerning the supply or the recapitulative statement submitted by him does not set out the information concerning this supply as required under Article 264.

2. In the situation referred to in Article 200, the person supplying goods in accordance with Article 138, shall be held jointly and severally liable for the payment of the VAT due on the intra-Community acquisition of those goods where *that person* has not complied with the obligation provided for in Articles 262 and 263 to submit a recapitulative statement containing the information concerning the supply or the recapitulative statement submitted by him does not set out the information concerning this supply as required under Article 264.

***Prior to holding a person supplying goods in accordance with Article 138 jointly and severally liable, the authorities to which that person is required to submit his recapitulative statement under Article 262 shall notify him of his non-compliance and shall give him the opportunity to justify his shortcoming within a period not shorter than two months.***

However, the first subparagraph shall not apply in the following situations:

The first subparagraph shall not apply where:

- (a) the customer has, for the period during which the tax became chargeable on the transaction concerned, submitted a VAT return as provided for in Article 250 containing all the information on this transaction;
- (b) the person supplying goods in accordance with *the conditions laid down in* Article 138 can duly justify to the satisfaction of the competent authorities his shortcoming referred to in the first subparagraph of this paragraph.

- (a) the customer has, for the period during which the tax became chargeable on the transaction concerned, submitted a VAT return as provided for in Article 250 containing all the information on this transaction;
- (b) the person supplying goods in accordance with Article 138 can duly justify to the competent authorities ***to which the recapitulative statement must be submitted in accordance with Article 262*** his shortcoming referred to in the first subparagraph of this paragraph; or

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*(c) more than two years have elapsed between the supply of goods and the date on which the person supplying goods in accordance with Article 138 received the notification referred to in the second subparagraph of this paragraph.*

**Amendment 4**

**Proposal for a directive – amending act  
Article 1 a (new)**

**Article 1a****Commission evaluation**

By ...(\*), the Commission shall draw up a report evaluating the impact of joint and several liability under Article 205 of Directive 2006/112/EC, including its impact on administrative costs for suppliers and on tax revenue gained by Member States. If appropriate, and provided that the Commission is able to demonstrate that the Value-added Tax Information Exchange System (VIES) database and the exchange of information between Member States function correctly, the Commission shall submit a proposal to amend Article 205 of Directive 2006/112/EC.

(\*) *Five years after the entry into force of this Directive.*